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ABSTRACT

This handbook is designed for all school and community members who are interested in developing or improving discipline policies and procedures. It is divided into seven sections covering the various issues discipline policy writers must typically address. There are also guidelines for developing and communicating discipline information and criteria for evaluating codes. Each of the major topics in the handbook contains two types of information, a state-of-the-art commentary that covers recent thinking, research, and, where appropriate, laws relevant to the topic. Actual examples from school codes illustrate the commentary. The material included in the commentary is based on articles, publications, and interviews with discipline specialists. The code illustrations were obtained from schools throughout the United States. (Author)

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RESOURCE HANDBOOK ON DISCIPLINE CODES

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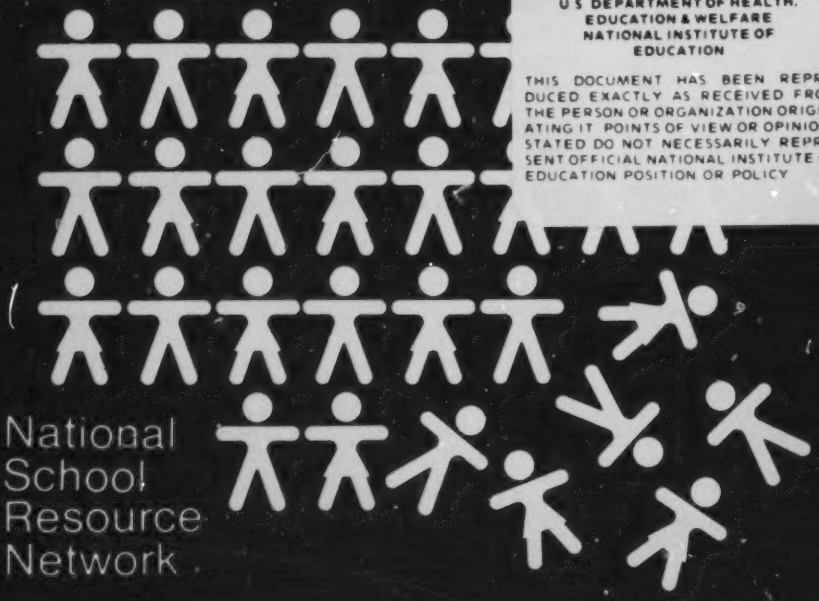

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SCHOOL VIOLENCE PREVENTION MANUAL

The *School Violence Prevention Manual* is the most comprehensive, usable, and practical body of materials ever compiled to remedy the problems of school violence. This information is being prepared by the National School Resource Network (NSRN), which was established to meet the challenge of school disruption, violence, and vandalism. NSRN assists troubled schools to prevent and reduce these problems by identifying and sharing ideas and solutions that schools and communities themselves have developed. Their assistance, training, and research activities provide valuable information and services that are of immediate use to schools, communities, and individuals. This material is available in the *School Violence Prevention Manual*.

A subscription to the *School Violence Prevention Manual* includes:

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The *Resource Handbook on Discipline Codes*.

Published separately, the *Resource Handbook on Discipline Codes* is also included in the *School Violence Prevention Manual*. Subscribers to the *Manual* who have previously purchased the *Resource Handbook on Discipline Codes* can order the remaining materials in the *Manual* at a reduced price. Please write the publisher for details.

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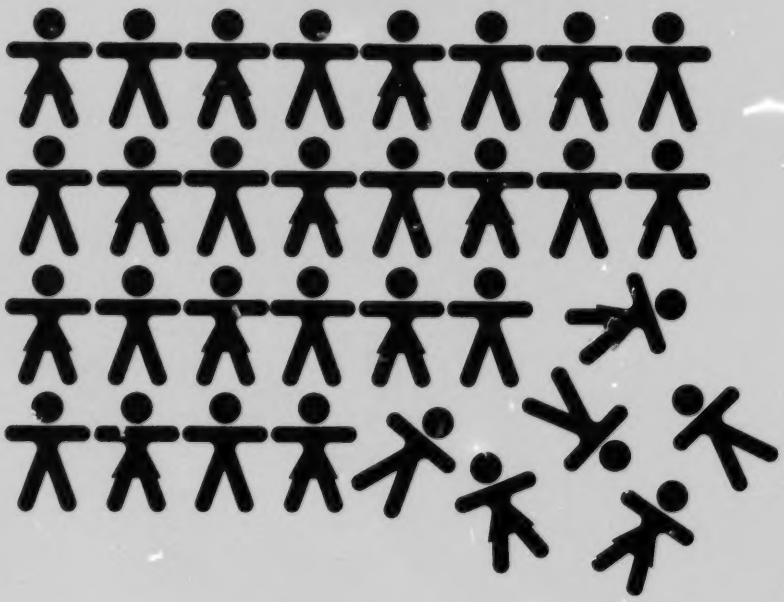
The National Schools Resource Network (NSRN) was established to meet the challenge of school disruption, violence and vandalism. Funded by a grant from the Law Enforcement Assistance Administration, Office of Juvenile Justice and Delinquency Prevention, the goal of the NSRN is to help schools prevent and reduce crime problems by identifying and sharing ideas and solutions that schools and communities themselves have developed. The project staff's work has also produced direct technical assistance and training materials for [illegible]

The Resource Handbook on Discipline Codes is designed for all school and community members who are interested in developing or improving discipline policies and procedures. It is divided into seven sections covering the various issues discipline policy writers must typically address. There are also guidelines for developing and communicating discipline information and criteria for evaluating codes. Each of the major topics in the *Handbook* contains two types of information, a state of the art commentary that covers recent thinking, research, and, where appropriate, laws relevant to the topic. Actual examples from school codes illustrate the commentary. The material included in the commentary is based on articles, publications, and interviews with discipline specialists. The code illustrations were obtained from schools throughout the United States.

National School Resource Network

RESOURCE HANDBOOK ON DISCIPLINE CODES



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NSRN wishes to acknowledge and thank the many states who provided the codes that are illustrated in this handbook:

Alaska
Arkansas
California
Colorado
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District of Columbia
Florida
Hawaii
Illinois
Iowa
Kentucky
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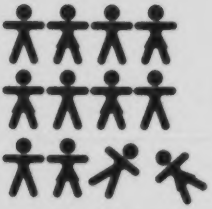
INTRODUCTION



THE PURPOSE OF THE NATIONAL SCHOOL RESOURCE NETWORK AND THE RESOURCE HANDBOOK ON DISCIPLINE CODES

The purpose of the National School Resource Network (NSRN) is to address problems of school violence and vandalism and, in doing so, to make schools more positive and safer places to learn. This overall goal is to be accomplished through training workshops, technical assistance from specialists, and resource-informational materials. The *Resource Handbook on Discipline Codes* is one of many such materials developed by NSRN.

Discipline can be one of the most crucial components toward the making of safer schools (NIE Safe Schools Study, 1977), and the backbone of an effective discipline program is a "good" student code of conduct. This handbook is designed for all school and community members who are interested in developing or improving discipline policies and procedures. It is divided into seven sections covering the various issues discipline policy writers must typically address. Additionally, guidelines for developing and communicating discipline information and criteria for evaluating a code are provided.

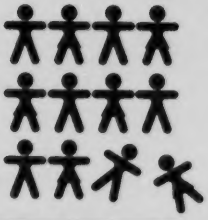
Each of the major topics in the *Handbook* contains, essentially, two types of information. Each of the seven main sections begins with a state-of-the-art commentary that covers recent thinking, research, and, where appropriate, laws relevant to the topic. Supplementing the commentary are illustrations that provide actual examples from school codes. Material included in the commentary is based upon articles, publications, and interviews with discipline specialists. Code illustrations were obtained from schools throughout the United States that are considered representative on the basis of geography and size.

As an introduction to this handbook, we offer the following guidelines for consideration when preparing and disseminating discipline policies:

1. An awareness of rules by students minimizes discipline problems. Students need to know in advance the rules that govern their conduct. Therefore, rules concerning student conduct should be clearly stated in writing and distributed to all students at the beginning of each school year or at such time as they enter the school.
2. Students, like other individuals, are more likely to understand, respect, and obey rules that they have had a part in formulating. Accordingly, representatives of the student body, the faculty, the administration, and lay public should work jointly to:
   - determine codes of acceptable and unacceptable behavior
   - establish an enforcement system
   - establish mechanisms for handling grievances and appeals
3. Effective guidelines should be sufficiently specific to enable students, teachers, administrators, and parents to know what is expected in terms of conduct and discipline within the schools.
4. Codes of conduct, disciplinary practices, the enforcement system, and grievance and appeal procedures should be reviewed periodically. An annual reevaluation of the status of conduct and discipline in the school can prove helpful in considering needed changes. A representative committee or an independent student court could serve as an advisory or review body to assist school authorities in the administration of discipline.
5. The standards of conduct that are established must not infringe upon the constitutional rights of students.
6. It is recommended that schools not withhold a student's diploma or limit a student's academic progress in any way because of nonacademic or attitudinal factors.
7. Disciplinary action should not be predicated upon so nebulous a finding as "lack of good citizenship," a term that may be logically interpreted in many completely different ways.
8. It is important that every student code be written so that it is readily comprehended by students and parents in each school district. This means the code should be written in a very simple, clear manner, and that if the school has a large bilingual population the code should be published in the respective foreign language(s).

9. Many of the codes used for illustrative purposes in this handbook use sexist terminology. In formulating new codes or revising existing ones, care should be taken to see that the language does not have a sexist orientation.

CHAPTER 1



OPENING STATEMENTS

Most discipline codes begin with some type of introductory comments addressing the purpose of the code and assumptions regarding students' behavior. Opening statements set the overall tone of the rules and sanctions and clarify the objectives of the discipline policy. The variety of philosophical approaches toward maintaining school discipline span the continuum from authoritarian administrative control to student self-governance.

It is well known that the main premise underlying the thinking on discipline policies during the 1950s and early 1960s was that of *in loco parentis*. The late 1960s and 1970s introduced an era of student rights and responsibilities. Therefore, most codes now in use stress concepts such as democratic decisionmaking, student self-governance, creative discipline policies, educational sanctions, and concern for the needs of individual students involved in discipline problems.

Generally, all student behavior is allowed or disallowed based on the extent to which it enhances or detracts from an orderly environment in which learning can take place. The concept of student rights and responsibilities proposes that students have certain rights or freedoms guaranteed by the federal and state constitutions. At the same time, however, there are laws that emphasize that the student has the responsibility for not interfering with the identical rights of others. Therefore, by taking into consideration the legal rights and responsibilities of students, code writers may complement these rights and responsibilities with discipline procedures and tech-

niques that guarantee all students an educational environment conducive to learning.

In this chapter are illustrations of a variety of opening statements and various approaches that code writers take in introducing students, parents, school staff, and community members to the topic of discipline.

The intent of the Broward County, Florida, code is to clarify what is unacceptable behavior and to detail the consequences for misbehavior. It emphasizes that the school recognizes rights guaranteed by state and federal laws but that these rights end when they begin to interfere with the maintenance of school discipline.

THE PURPOSE OF THIS DOCUMENT

Public schools have the moral and legal responsibility to provide an education for all children. Students have the responsibility to take advantage of the opportunities provided.

The purpose of this document is to provide a guideline so that:

1. Students will know what behavior is unacceptable as well as the consequences for such behavior;
2. Students will be assured that they will be treated fairly;
3. Students will know that the Code will be applied consistently in every school in the County.

It should be pointed out that although parents and students have many rights guaranteed by state and federal laws and court decisions, these rights end when and where they begin to interfere with the rights of others. Most importantly, students need to know that every right carries with it the responsibility to exercise that right wisely, and that failure to do so may result in loss of privileges. Essentially, then, the responsibility for conduct is in the hands of each individual student, and when an action by a student is not in line with an accepted standard, specified consequences shall be applied as outlined in this document.

The intent of this Code is to help students turn unacceptable behavior into acceptable behavior. Used properly by students, parents, teachers, counselors, administrators, and all other school personnel, this document should be an instrument which will help provide an atmosphere that will enable students to achieve the goal of a basic education, thus allowing them to be competitive in the adult world.

(*Broward County, Florida*)

The Salt Lake City, Utah, School District policy provides a clear example of the alternatives available to schools in defining a school environment conducive to good discipline. Code writers have decided to adhere to the most contemporary interpretation that results in students' use of freedom and choice and the inculcation of responsibility.

DISCIPLINE POLICY STATEMENT

No two people are likely to consider discipline in exactly the same light. In schools of the last century, discipline meant good order. To the educators of today, discipline means good working and learning conditions. In the traditional school, discipline was secured through repression; modern school discipline is the result of all learning experiences. The drill master kept order by force of his dominating personality, regardless of the monotonous nature of the work. The modern educator secures order through appeal of the activities, which are selected because of their function in everyday life. On the one hand, there is restraint and appeal to authority, with false attention as the end product. On the other there is evidence of freedom and choice, resulting in voluntary cooperation, with good discipline as the by-product of effective study. One is negative, the other is positive in nature. We recommend the positive approach to discipline, recognizing that discipline is a growth process.

(*Salt Lake City, Utah*)

The Dallas Independent School District in Texas emphasizes that although educational objectives encourage independent activity, the school as a group endeavor requires reasoned behavior on the part of all participants. Furthermore, by setting up consistent and reason-

able rules of conduct, the individual is aiding in progressing from external control toward self-discipline.

PHILOSOPHY OF DISCIPLINE

The attainment of educational objectives encourages independent action. Any group endeavor, however, moves most readily toward its goals when there is reasoned behavior on the part of all participants. Effective discipline helps an individual progress from the need for external controls to the self-discipline of the mature adult. With these concepts in mind, the Dallas Independent School District's policies attempt to set consistent and reasonable limits to behavior in line with pupil and group needs and with appropriate expectations of pupil and group behavior.

The Dallas Independent School District believes that the professional staff has the responsibility for establishing and implementing consistent disciplinary procedures. This Code of Conduct is being published in order to communicate those procedures.

(*Dallas, Texas*)

The Montgomery County, Maryland, code elaborates the general thrust of the Dallas code, emphasizes changing inappropriate

behavior, and recognizes that misbehavior may be related to environmental factors.

STATEMENT ON DISCIPLINE

Policy

A Philosophy and Suggested Responsibilities and Rights Related to School Discipline

The Board of Education of Montgomery County believes that learning is a continuous evolutionary process. The Board also believes that while learning is not confined to a school building it is nonetheless the primary function of the school. Like all social institutions, the school must evolve a certain set of rules and regulations to govern its participants and to facilitate the performance of its primary function. These rules should reflect a balance between the responsibilities and rights of the individual and the responsibilities and rights of the group. They must also reflect the need to promote an environment conducive to effective and efficient learning and the need for mutual respect and cooperation between all segments of the school community.

The administration of a discipline policy should focus not on punishment but on changing or controlling inappropriate behavior. To that end, all available resources should be utilized. Fair, firm, and consistent application of a policy is expected; and students should be made aware of the

consequences of misbehavior. It is equally important that there be careful evaluation of the individual situation so that the school's response to the student is appropriate. While causes are not always evident, misbehavior may be related to such factors as surplus energy, physical discomfort, a poor self-image, learning problems, irrelevant curriculum, poor classroom management, and stresses on the student unrelated to school. In some instances, changing the environment will be the most appropriate response; in other situations, the student and his behavior must be dealt with directly.

The Board believes that discipline is learned and, therefore, can and should be taught in the home, school, and community. The child also learns through experience and imitation of those around him. Discipline is a developmental process. As the child matures, he/she should be given increased responsibility in keeping with his/her developmental level and social maturity and every opportunity to practice self-discipline in order to positively reinforce responsible action. The ultimate goal should be the internalization of discipline so that little external enforcement is required. The Board believes that this philosophy will foster the development of happy, self-disciplined, self-reliant personalities capable of behaving appropriately as the situation demands. It hopes that this philosophy will produce individuals with social consciences who see the good sense in acceptable behavior and who are spared the consequences of misbehavior.

(*Montgomery County, Maryland*)

The Boulder Valley Public Schools, Colorado, code emphasizes student self-governance, exercise of human rights, and students' rights as citizens of the United States. Policy writers clearly point out to students that any exercise of rights carries with it accompanying responsibilities.

STUDENT RIGHTS AND RESPONSIBILITIES

In order to maintain an environment most conducive to attaining the highest quality of education in the Boulder Valley Public Schools, there must be a spirit of mutual respect and involvement among the members of the school community. A primary goal of the schools is to provide students with opportunities to exercise their human rights and rights as citizens of the United States, and to participate meaningfully in the affairs of the schools. Only in this manner can a true understanding be conveyed of the fundamental principles to which this nation is dedicated.

The concept of individual rights and freedom is inseparably joined with, and inevitably restricted by, the necessity for respect of the rights of others and responsibility to the entire community. Learning can take place only when there is an appropriate balance between such rights and responsibilities. In the schools, it is the legal duty of school authorities both to protect the individual's rights and to maintain such control and discipline as is necessary to ensure order.

This policy and the procedures instituted hereunder are intended to encourage the active involvement of students in their education, and to foster the spirit of free inquiry and expression within the framework of orderly and responsible behavior. It is the intent of the school district to afford vigilant protection of the Constitutional rights of all members of the school community and, equally, to prescribe and control conduct within the schools, consistent with the safeguards of the Constitution.

(*Boulder, Colorado*)

The Mukilteo School District, Everett, Washington, code is designed to clarify the responsibility of all members of the school community to understand and appreciate our representative form of government and to establish a climate for learning within the school.

SCHOOL GOALS

A basic responsibility of the Mukilteo School District and its professional staff shall be to develop an understanding and appreciation of our representative form of government, the rights and responsibilities of the individual, and the legal processes whereby necessary changes are brought about.

Students have a right to a public education as provided by the Constitution of the State of Washington. Students also have a corresponding responsibility to join with other members of the school community in respecting the rights and responsibilities of others in that community, and in establishing a climate for learning within the school.

It is impossible to list all of the rights of students. Correspondingly, it is impossible to list all student responsibilities; however, it must be emphasized that lack of responsibility means a weakening of rights.

The student in the Mukilteo School District is responsible as a citizen to observe the law of the United States and the State of Washington and/or its subdivisions. The student shall respect the rights of others so that he does not interfere with their education.

The following statements of student rights and responsibilities for the Mukilteo School District are designed to help all members of the school community recognize their legal position and to avoid confrontation caused by misunderstandings. It is the responsibility of all members of the school community—students, parents, staff and administrators—to see that these rights are protected.

It is cautioned that these statements are only guidelines and should not be used as a definite statement of legal rights in any particular case or situation. The rule or rules of law which govern a case will depend on the facts in each case.

(*Everett, Washington*)

The State of New York Education Department places emphasis on two basic premises in their discipline policy: (1) if rules are to be followed, they should be widely distributed and should have clear and simple language; and (2) if rules are to be understood, respected, and obeyed, the people to whom they apply should have a role in drafting them.

Discipline

An awareness of rules on the part of students minimizes discipline problems. Rules concerning student conduct ought therefore to be clearly stated in writing, and distributed to all students at the beginning of each school year or at such time as they enter the school.

Students, like other people, are more likely to understand, respect, and obey rules which they have had a part in formulating. Accordingly, representatives of the student body, the faculty, and the administration should work jointly to

- determine codes of acceptable and unacceptable behavior,
- establish an enforcement system, and
- establish mechanisms for handling grievances and appeals.

Effective guidelines are sufficiently specific to enable students, teachers, administrators, and parents to know what is expected in terms of conduct and discipline within the schools.

Guidelines established cooperatively provide a sound basis for discipline in the school. Codes of conduct, disciplinary practices, the enforcement system, and the grievance and appeal procedures should be reviewed periodically.

An annual reevaluation of the status of conduct and discipline in the school can prove helpful in considering needed changes. A representative committee or an independent student court could serve as an advisory or review body to assist school authorities in the administration of discipline.

The standards of conduct which are established must not infringe upon the constitutional rights of the students. They should forbid injury to persons or property and interference with the learning process but need not prescribe school discipline for offenses committed within the school which are already adequately provided for by criminal law, unless the presence of the student in school would constitute a danger to the student himself, to other members of the school community, or to the continuation of the educative process. The school may not punish a student for offenses occurring off school grounds, unless it can be established that such offenses are directly related to the orderly operation of the school.

(*State of New York*)

The Minneapolis, Minnesota, statement on student behavior states that the responsibility for regulating student behaviors belongs to all members of the school community.

STATEMENT OF POLICY

It is the position of the School Board of Independent School District 281 that learning can best take place in an orderly environment and that students can best learn individual and collective responsibility and gain maturity if they are provided opportunities in which to exercise responsibility within the school setting.

It is a responsibility of the school board, administrators, and teachers to safeguard the health and safety of each student. The school board and district administrators will support district personnel who, in dealing with students on disciplinary matters, act in accordance with state law, State Board of Education regulations, and this policy.

The school board recognizes its responsibility to meet the educational needs of students who do not respond well to normal school programs. Such efforts may include utilizing special services personnel and outside referral agencies and adjusting normal school procedures. If a student does not respond to these efforts and consistently exerts a disruptive influence on the educational environment of a school, the needs of the other students and staff must become a major factor in planning alternatives.

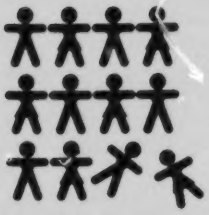
With due consideration to these obligations, it is the responsibility of the school board, administrators, and classroom teachers to make reasonable rules and regulations for the governing of student behavior and conduct.

The following school board policies apply district-wide. At the same time, the

board recognizes the uniqueness of each building and intends that there will be individual building and classroom procedures to implement and supplement these district policies.

(*Minneapolis, Minnesota*)

CHAPTER 2



RIGHTS

Most schools deal at length in their codes with the concept and implementation of student rights and responsibilities. A number of schools have even chosen to title their codes with these terms, for example, "Statement of Responsibilities and Rights" (Everett, Washington). This chapter deals with the topic of rights. (The next chapter will deal at length with student responsibilities.)

Students, as citizens, are guaranteed individual rights under state and federal constitutions. These rights are accompanied by related responsibilities. A *right* is defined as a power or privilege of free action. *Responsibility* is an obligation to answer for an action. In order to preserve rights, individuals have a responsibility to preserve the rights of others. In summary, the courts take into consideration both the rights and responsibilities of students and of the schools that students attend. These laws, which have an impact on the school systems, are constantly being revised and refined. The law, like human relations, is dynamic—not static. It is the responsibility of code writers as well as students and school staff to review periodically recent court decisions and be aware of their implications for school policy.

The major rights and freedoms usually stated in discipline codes—the First Amendment and related activities, student privacy (search and seizure), student government, student records, the right to an education, freedom from discrimination, and rights of handicapped students and special education students—are discussed in the following sections.

A. FIRST AMENDMENT AND RELATED ACTIVITIES

1. Speech and Symbolic Expression

In essence, the First Amendment to the U.S. Constitution guarantees the right of freedom of speech to all Americans, including students. However, the constitutional guarantee does *not* include license to interfere with the orderly conduct of classes, to coerce others to participate in a particular mode of expression, or to violate the rights of those who disagree with a given point of view. Student speech is usually subject to disciplinary action by school officials if such speech:

- is slanderous, that is, spoken maliciously or without regard to the truth of the assertion
- clearly and immediately incites others to damage property or physically harms others
- materially and substantially interferes with the normal operation of the school

The school systems in Everett, Washington, and Orleans Parish, Louisiana, illustrate, first, a succinct and, second, a more elaborate way that student free speech statements may be written. Note that while both statements encourage student expression, each statement clearly limits this freedom to not disrupting the orderly operation of the school.

Freedom of student expression, written and oral, is an integral part of the Mukilteo School District's instructional policy.

Verbal and written expression of opinions on school premises is encouraged. However, this freedom is subject to reasonable regulations and may not be used to disrupt the educational process or interfere with the rights of others.

The use of obscenities or personal attacks are prohibited.

(*Everett, Washington*)

Students have the right to express views or protest symbolically by wearing armbands, buttons, insignias, and the like unless the manner of expression materially and substantially interferes with the orderly operation of the school or the rights of others, or the principal has reasonable grounds for believing that it will.

In the exercise of rights described above, students have the responsibility to develop tolerance of the viewpoints and opinions of others, to recognize the right of other individuals to form different points of view, and to dissent in an orderly and respectful manner.

Students have the right to express opinions and to support causes, publicly or privately, regardless of how controversial the issues may be, provided such expression is not obscene according to current legal definition, slanderous, or does not incite others to commit unlawful acts on school premises or to violate school rules and regulations or to disrupt the orderly operation of the school.

(*New Orleans, Louisiana*)

A student's right to express himself or herself through symbolic speech (e.g., buttons, armbands) has also been defined and supported by the U.S. Supreme Court. The only limitation that is imposed upon this right relies upon evidence that a disorder was caused or that there was an invasion of the rights of others. The state of New York code sums these rights up by stating that "symbolic expression must not contain material which is obscene or libelous or which advocates racial or religious prejudice." The Newark, New Jersey, statement on free speech explains to students and parents the legal basis upon which students have acquired the right to free speech in school and symbolic expression.

FREE SPEECH

The first amendment to the United States Constitution guarantees your right to free speech. This covers several things besides verbal speech, including leafleting, wearing symbols such as armbands and buttons, and your hair and dress.

References

U.S. Constitution, Amendment 1. "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peacably to assembly, and to petition the government for a redress of grievance."

Symbolic Speech

In 1969, The Supreme Court decided that high school students do not give up their right to free speech because they are in school. The case dealt with students who

wore black armbands to school to protest the Vietnam War. The court said that the students could wear the armbands.

In the case there was no "major" disruption at the school as a result of the students' wearing the armbands. The court said that if there had been such a disruption, the students wearing the armbands might have been held responsible. If your symbolic speech, such as armbands or buttons, could reasonably be predicted to start a "major" disruption, or is libelous, obscene, or derogatory to any race or ethnic group, the school may prevent you from wearing the armband or button. (What makes a disruption "major" is determined in each case by the Board of Education. There is no set definition of what a "major" disruption is.) If you wear the armband or button and, by doing so, intend to start trouble, you can be held legally responsible if trouble occurs.

If such a problem arises, get in touch with a lawyer.

References

Tinker v. *Des Moines Independent School District* (393 U.S. 503, 1969). The constitutional right to free speech is applicable to students and teachers in schools unless it is shown that it interferes with school discipline or the rights of others.

(*Newark, New Jersey*)

The state of North Dakota also provides a detailed explanation of the rights and limits of student speech and adds an invitation to all members of the school community to support the concept of full and reasonable expression.

The First Amendment to the Constitution guarantees the right of freedom of speech to all Americans, including students. However, the constitutional guarantee does not include license to interfere with the orderly conduct of classes, to coerce others to participate in a particular mode of expression, or to violate the rights of those who disagree with a given point of view.

Student speech may be subject to disciplinary action by school officials if such speech

- is slanderous; i.e., spoken maliciously or without regard to the truth of the assertion;
- clearly and immediately incites others to damage property or physically harms others; or
- materially and substantially interferes with the normal operation of the school.

Students have the right to express themselves unless such expression directly interferes with the educational process, threatens immediate harm to the welfare of the school or community, or encourages unlawful activity, or interferes with another individual's rights. When a disturbance occurs the board may reasonably limit free expression, although it MAY NOT INTERFERE BECAUSE OF FEAR THAT A DISRUPTION *MIGHT* OCCUR.

Good schools afford the greatest possible opportunity for freedom of inquiry and expression to all members of the school community. Students and teachers are free to examine objectively and discuss significant issues, and the diverse points of

view concerning these issues, however controversial the issues or points of view may be.

The expression by students of their attitudes, ideas, and opinions is particularly vital to education in a democracy. Effective classroom activities are structured to encourage students to express, examine, and debate their thoughts and those of others without fear of reprisal.

The opportunity to share thoughts, and to discuss and debate ideas and values, helps to eliminate bias and prejudice, and to foster the exercise of reason in forming, understanding, and defending beliefs. This opportunity is shared by all members of the school community if each member recognizes the rights of all—students, teachers and administrators—to express themselves and learns to be a listener as well.

(*State of North Dakota*)

The Philadelphia, Pennsylvania, and Washington, D.C., school systems have both chosen brief yet sufficient ways of stating students' right to exercise free speech and expression.

The rights and limits of students respecting freedom of speech, press, and assembly shall be in accord with the first amendment of the United States Constitution.

(*Philadelphia, Pennsylvania*)

Students shall have the right to exercise their constitutional rights of free speech, assembly, and expression without prior restraint, so long as the exercising of these rights do not substantially interfere with the rights of others. These rights shall include, but are not necessarily limited to, the following:

a. Wearing political buttons, armbands, or other badges of symbolic expression;

b. Organizing and participating in political and social organizations;

c. Use of student bulletin boards without prior censorship, but not school bulletin boards without approval of such use which shall be reasonably provided by the schools;

d. Personal determination of appearance, including styles of hair and dress;

e. Preparation and distribution of posters, newspapers, or other printed matter, on or off school grounds, and the reasonable use of the school public address system subject to standards adopted by the student government organization in cooperation with school officials; provided, that such distribution or use shall be limited to reasonable times before, during, and after school hours so as to prevent undue interference with classroom activities and the rights of others;

f. Free expression and defense of views and opinions without having such expression affect the student's exam-

inations, grades, academic achievement, or participation in extracurricular activities.

(*Washington, D.C.*)

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2. Publications, Press, and Literature

Students' right to express themselves through publications and newspapers is based on responsible journalism. If school publications are free from libel, obscenities, or personal attacks, they may be printed without school interference. Students who respect these standards are allowed the opportunity to report the news and editorialize in the same manner as in any other newspaper. The Ohio Department of Education code alerts students that "they must assume full responsibility for the content" of a publication. Some states support the belief, however, as stated in the state of Idaho student code, that "newspapers printed by a journalism class for credit should have faculty supervision." The discipline code from the state of South Dakota illustrates the above points:

Students have a right to prepare written materials off school property and, under reasonable constraints, distribute such materials on school grounds and in school buildings. Here the rules of reasonable, responsible journalism would pertain. Students may be required to identify the publishers and conform to reasonable rules concerning the content, distribution and net effect upon the other students of

> their handouts. Freedom of expression does not extend to profane, vulgar or pornographic materials and limitations through the exercise of school rules are not infringements on personal rights to freedom of expression.
>
> (*State of South Dakota*)

Students have a right and are as free as editors of other newspapers to report the news and to editorialize. *School officials have a responsibility to supervise* student-run newspapers published with school equipment and remove obscene or libelous materials as well as edit material that would cause a substantial disruption or material interference with school activities.

School officials' responsibilities are usually subject to the following:

- School officials may not censor or restrict material simply because it is critical of the school or its administration; however, such material should contain a byline identifying the writer.
- Rules of the school for prior submission for review of obscene, libelous materials, and material advocating illegal actions, should be reasonable and not calculated to delay distribution.
- If prior approval procedures are established, they should identify to whom the material is to be submitted, the criteria by which the material is to be evaluated, and a limitation on the time within which a decision must be made. If the prescribed time for approval elapses without a decision, the literature shall be considered as authorized for distribution.

The Montgomery County, Maryland, code illustrates in what ways school officials are responsible to supervise student newspapers and what procedures are taken when materials are obscene, libelous, or may cause a disruption with in the school system:

PUBLICATIONS

1. School-sponsored Publications

   a. School-sponsored publications such as newspapers, yearbooks, and literary magazines shall be encouraged.

   b. Students have the right to decide on the content of school-sponsored publications within guidelines set cooperatively with the teacher-advisor, who shall provide direction and guidance on grammar, format, suitability of materials, and literary taste. The final decision on the guidelines rests with the teacher-advisor, subject to appeal.

   c. School newspapers must provide an opportunity for members of the school community to express a variety of viewpoints.

2. Publications Produced Without School Sponsorship

   a. Students may distribute in school, during the school day, publications that are not school-sponsored provided:

      1. They bear the name of the sponsoring organization or individual.

      2. Publications that are sold are published by students enrolled in Montgomery County Public Schools.

      3. The time, place, and manner of distribution have been agreed upon by students and administration in advance of the distribution.

   b. The student has a right to be informed by the principal or his/her designee of any policy or procedure regard-

ing distribution of publications which are not school-sponsored.

c. Distribution may be halted, and disciplinary action taken by the principal after the distribution has begun, if the publication:

1. Is obscene, in that it meets all three of the following criteria:

a. An average person applying contemporary standards would find that the material, taken as a whole, appeals to prurient interest in such subjects as sex, nudity, excretion, sadism, or masochism.

b. The material depicts or describes such matters in a patently offensive way, going substantially beyond the ordinary limits of candor.

c. The material, taken as a whole, lacks serious literary, artistic, political, or scientific value.

2. Is libelous, in that it includes any unprivileged, false, and malicious publication which by printing, writing, signs, or pictures tends to expose to public scorn, hatred, or ridicule, done knowingly and/or recklessly and/or negligently.

3. Causes or may be reasonably expected to cause substantial disruption of school activities.

4. Is directed toward and likely to incite or produce imminent lawless action.

5. Encourages actions which endanger the health or safety of students.

d. If the distribution is halted, the principal shall state his/her reasons in writing within two school days, providing a copy to the students making the distribution and a copy to the area assistant superintendent. Such a decision may be appealed.

POSTERS AND SIMILAR MATERIALS

1. Students may display posters and similar materials on designated bulletin boards and wall space normally used for posting materials, subject to the same procedures governing publications which are not school-sponsored.

2. The distribution through the schools of such printed matter as commercial advertisements, political campaign materials, and religious literature is restricted by MCPS regulation.

(*Montgomery County, Maryland*)

Staff members may be held responsible for materials that are libelous or obscene and such publications may be prohibited. If in doubt concerning the libelous or obscene nature of a statement, staff members should, through appropriate channels, consult the school's district attorney.

Off-campus Publications. At times, students may wish to circulate off-campus publications. Most schools have policies that reflect their belief that the constitutional right of freedom of speech guarantees students, as private citizens, to publish their own materials other than those sanctioned by the school. The school has no responsibility to assist students or to provide facilities in the

publishing of such materials, nor may the school be held responsible for any statements published in them.

The newspaper staff members themselves have sole responsibility for any statements published. Unofficial publications have moral and legal obligations to observe the rules of responsible journalism.

School authorities may regulate the time, manner, place, and duration for distributing literature on school grounds. They may prevent the distribution of literature containing obscene or libelous material or literature likely to cause material and substantial interference with the requirements of appropriate discipline in the operation of the school.

The Newark, New Jersey, code addresses these issues:

LEAFLETS AND NEWSPAPERS

You have the right to pass out at your school noncommercial leaflets and newspapers that are not published by the school. The school has the right to regulate the time and place of distribution so that it does not interfere with the function of the school. For example, the school may pass a rule that you can't distribute leaflets during class time.

Under New Jersey law, it is illegal for anyone to pass out partisan political literature in school. ("Partisan" includes anything that favors one person or position over another in an election.) You cannot campaign for a candidate for public office in school. Out of school, of course, you can campaign for the candidate of your choice.

The school cannot require that you submit your document for approval before you pass it out. You are responsible for the contents of the document. If it is libelous, obscene or encourages other students to

break school rules, you will be held responsible for the contents. (A document is libelous if it contains a false and damaging statement about an individual or group.) You can, however, criticize school officials or school rules in your publication.

If your school publishes a school newspaper, it is responsible for the contents of the paper. Consequently, the school can review what is in the paper before publication. The school should have rules governing the review process and outlining what is considered unsuitable material for publication by the Board of Education.

You have the right to pass out literature off school grounds, but you cannot do this during school hours since you are required to be in school when it is in session.

(*Newark, New Jersey*)

Distribution. Students have the right to engage in orderly and not substantially disruptive distribution of papers (leaflets, brochures, or other written forms of expression).

School officials may regulate the time, place, and duration for distributing literature on school grounds. They may prevent the distribution of literature containing obscene or libelous material or literature likely to cause material and substantial interference with the requirements of appropriate discipline in the operation of the school. The issue of distribution is addressed in the Illinois and Washington, D.C., codes:

Student newspapers, as well as other publications distributed on or off campus, are free to express the student's views without

censorship or prior restraint. Student editors, however, should be warned that they are responsible for the content of their publications and that they may be subject to lawsuits for printing libel, slander, obscenity, known falsehoods, or reckless disregard for truth.

The school may restrict the time when publications can be distributed as well as the areas of distribution in order to avoid interference with the regular school process.

(*State of Illinois*)

Preparation and distribution of posters, newspapers, or other printed matter, on or off school grounds, and the reasonable use of the school public address system subject to standards adopted by the student government organization in cooperation with school officials; provided, that such distribution or use shall be limited to reasonable times before, during, and after school hours so as to prevent undue interference with classroom activities and the rights of others.

(*Washington, D.C.*)

Approval Procedures. The San Francisco, California, and Richland County, South Carolina, codes stress the procedures for approval of student publications and subsequent distribution. For example, bulletin board space should be provided for the use of students and student organizations. However, school authorities

may restrict the use of certain bulletin boards to school announcements.

Schools can adopt regulations that require materials to be approved or cleared either through the principal's office or the office of the principal's designee before being posted or communicated throughout the school. In addition, school authorities may require that notices or other communications be officially dated and approved before posting and that such material be removed after a prescribed reasonable time to assure full access to the bulletin boards by other students.

MIDDLE, JUNIOR, AND HIGH SCHOOLS

Students in Middle, Junior High and High Schools may not distribute any written material among their fellow students except such material as may be produced at school with the guidance and approval of the school authorities and except such material as the principal has approved for distribution in writing.

PROCEDURE FOR APPROVAL BY PRINCIPAL

Material for which the principal's approval is sought shall be submitted to the principal two days before the proposed date of distribution along with the identification of the student, or students, to be responsible for the distribution and an undertaking, signed by such students, to clean up any litter resulting from such distribution. Lengthy materials should be submitted sufficiently in advance of proposed dis-

tribution to permit reading by the principal. Short material of a current nature will be handled on an expedited basis by the principal where possible.

The principal shall grant permission to distribute any such materials at such places and times as he shall designate. Places and times shall be designated which will not interfere with the normal operation of the school but shall afford the distributors a reasonable opportunity to distribute approved materials. Provided, however, that the principal of a junior high or middle school may refuse permission to distribute any material which advocates the commission of a crime or disobedience to school or other lawful authority or any material which, because of its portrayal of violence, sex or hatred or the use of vulgar language is inappropriate for pre-adolescent students, or which is commercial in nature. Provided, further, that the principal of any high school may refuse permission to distribute any material which:

a. under the then existing conditions at the school, would be likely to cause substantial disruption of or material interference with normal school activities;

b. is, in whole or in part, obscene as defined by Section 16-414.1 of the Code of Laws of South Carolina, 1962, as amended; or

c. is commercial in nature.

The principal may also refuse permission to any student who has, on a previous occasion, failed or refused to clean up litter resulting from an approved distribution. The principal shall provide the student

seeking approval with a written statement granting or denying permission to distribute such material by the end of the second day after the material was submitted. If permission is granted, the statement shall indicate the time and place approved for the distribution. If permission is not granted, the statement shall clearly indicate the reasons for which it was not granted. Failure of the principal to provide the student with a written statement by the end of the second day, except in the case of lengthy material (over 50 pages), shall operate to permit the student to distribute the material at a time and place designated by the principal.

(*Richland County, South Carolina*)

- Students have the right to use bulletin boards without prior censorship requirement or approval by the administration or Board of Education. Students have the right to their own bulletin boards in accordance with the San Francisco Board of Education Policy #13-31 A2, Adopted March 31, 1971.
- Students have the right to distribute political leaflets, newspapers, or other printed matter both inside and outside school property without prior authorization of, [or] restriction by, school administration or the Board of Education, provided, however, the time of such distribution may be limited to before and after school, during lunch, or other free periods so as to prevent interference with classroom activities.

- Students must refrain from any distribution or display of materials which are obscene according to the current legal definitions, which are libelous, or which advocate the commission of unlawful acts.
- Students have the right to reasonable use of public address systems in school without prior censorship; however, the time of announcements may be limited to before and after school, during lunch or other free periods so as to prevent interference with class procedures.

(*San Francisco, California*)

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3. Assembly

Students have the right to *assemble, demonstrate,* and *picket* peaceably as well as to *petition* and to *organize* on school grounds or in school buildings. Exercise of the right of an individual to assemble, picket, and demonstrate shall be denied students only on those occasions when their acts substantially and directly endanger physical health or safety, damage property, or seriously and immediately disrupt the activities of others. It is the schools' responsibility, as the following codes demonstrate, to protect students' rights to free assembly guaranteed by the First Amendment:

Students have the freedom to assemble peacefully. There is an appropriate time and place for the expression of opinions

and beliefs. Conducting meetings or demonstrations which interfere with the operation of the school or classroom is inappropriate and prohibited.

(*Richland County, South Carolina*)

In addition, an individual student or group of students shall have the means by which they may discuss problems, make complaints, seek information, make recommendations, seek redress of grievances, or otherwise act individually or as a group with regard to school problems, curriculum matters, and school activities.

(*Boulder, Colorado*)

THE RIGHT TO FREEDOM OF PETITION AND PEACEFUL ASSEMBLY

Students have the right to circulate petitions within the school with the following general limitations:

- Students shall properly identify petition by names of the persons who are responsible for circulation.
- Students may circulate petitions before and after school, at lunch periods and at other reasonable times the principal may designate.
- Students shall not coerce others to sign petitions.

- Students have the right to receive a reply to petitions from the appropriate authority in the school.

Students have the right to assemble peacefully after proper notification and approval of the school principal or his designated representative.

A designated area in the school which can be used without disruption of the main body of students and which is available to students during non-academic periods shall be available for a peaceful assembly of students, for the purpose of voicing opinions.

Students shall be allowed to present appropriate outside speakers, films, and other media to students with the approval of the principal or his designee.

Students shall be responsible for determining those school rules which govern such assemblies. The principal shall ascertain that the exercise of freedom of expression does not conflict with that stated in the first paragraph of the section "The Right to Freedom of Expression and Full Inquiry."

If a speaker violates these rules, the principal or his designee may stop the program and/or the speaker may be requested to leave the school premises.

(New Orleans, Louisiana)

Students have the right to present petitions, complaints, or grievances to school authorities and the right to receive prompt,

authoritative replies from school officials regarding the disposition of their petitions, complaints, or grievances.

(*Washington, D.C.*)

To ensure that the students' activities do not substantially disrupt the educational process, it is the students' responsibility to observe the following rules:

- Meetings shall be scheduled in advance.
- Normal school activities may not be disrupted.
- The meeting shall not be such as may be likely to create a substantial danger to persons or property.
- If a crowd is anticipated, a crowd control plan shall be filed in the appropriate office well in advance of the meeting.

These guidelines are spelled out in the Maryland and Michigan codes:

FREEDOM OF ASSEMBLY

Students have the right to organize and assemble for discussion of issues critical to them and to demonstrate peacefully.

The time and place of these assemblages shall be cooperatively established with the principal, with consideration given to the rights of all students.

The principal may require that the activity be held before school, during lunch time, or after the end of the school day if

he/she has reason to believe that holding it during school hours would substantially disrupt or interfere with the regular school program. His/her objection to assembly during the school day must be submitted in writing; however, the objection is subject to appeal.

Students organizing such activities are responsible for taking all reasonable steps to see that they are conducted in an orderly manner.

Students who participate in assemblies held as described in A through D above shall be excused from classes during the time the activity is scheduled.

The school staff must respect the rights of student assemblage and should work to assure that these rights are exercised in a thoughtful and responsible manner.

The time and place of such assemblages shall be cooperatively established with the principal, with consideration given to the right of all students. Available professional staff should be assigned to monitor such assemblages.

(*Montgomery County, Maryland*)

Students have the right to dissent. However, freedom to dissent is relative, not absolute. The exercise of the right to dissent must not infringe in any way upon the rights of others. The right of dissent does not include participation in student sit-ins, unauthorized assemblies, the take-over of school offices or other school facilities, or the obstruction of halls and stairways.

Students have the right to petition to seek redress of grievances or to express

dissatisfaction with policies of those in positions of authority affecting students. The Central Board will establish procedures for consideration of such grievances, which must be published and observed so that an orderly process will result.

(*Detroit, Michigan*)

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4. Speakers and Programs

Students and student organizations in consultation with school officials should be free within reasonable constraints to invite and hear speakers of their choosing.

If program speakers have engaged in conduct that violates constitutional standards embodied in state law and there is reason to believe that they will repeat such conduct, school officials have authority to prohibit such program participation.

If a school allows some outside speakers to use school facilities, it may not deny other similar speakers the use of these facilities merely because such speakers are deemed controversial or undesirable by school officials. The state of New York code clearly addresses these concerns:

SPEAKERS AND PROGRAMS

Students and student organizations should be free within reasonable constraints to invite and hear speakers of their choosing.

If a school allows some outside speakers to use school facilities, it may not deny other similar speakers the use of these facilities merely because such speakers are deemed controversial or undesirable by school officials (*Stacey* v. *Williams*, 306 Fed. Supp. 963, 971; 312 Fed. Supp. 742; *East Meadows Community Concerts Association* v. *Board of Education of Union Free School District No. 3, Nassau County*, 19 N.Y. 2d 605; *Matter of Buckley* v. *Meng*, 35 Misc. 2d 467). Neither can use of school facilities be denied solely because a demonstration is threatened in the event that a certain program is held (*Griffin* v. *Tatum*, 300 Fed. Supp. 60; 425 Fed. 201). However, despite rulings that mere apprehension of disruption is not sufficient to justify restriction, a District Court judge has ruled that a state university may prohibit access to outsiders where the individual has engaged in conduct which violates constitutional standards clearly embodied in State law, and there is reason to believe that he will repeat such conduct (*Dunkel* v. *Elkins*, 325 Fed. Supp. 1235).

Although in the interests of sound education, students should hear both sides of an issue, the school cannot require them to hear both sides of an issue as a condition for use of school facilities (*Brooks* v. *Auburn*, 296 Fed. Supp. 188; affirmed, 412 Fed. 2d 1171).

School authorities may regulate the times and locations of speeches and assemblies, and may require advance notice in order to avoid conflicts and insure proper protection of the school community. To insure understanding and compliance, rules and regulations pertaining to these matters should be formulated, dis-

cussed, and published well in advance of preparation for and conduct of such programs.

(*State of New York*)

School authorities, as seen in a Mississippi school code, may regulate the times and locations of speeches and assemblies and may require advance notice in order to avoid conflicts and ensure proper protection of the school community:

SPEAKERS AND PROGRAMS

Classes are encouraged to bring community people into the classroom to speak to students on subjects pertaining to subject matter or student interest.

While programs are encouraged, these must be cleared through the school office along with a plan describing the place, time, and method by which the program is to be conducted. Office personnel are the only school officials who are allowed to use the speaker system. Students who wish to make announcements must clear these through the office.

(*State of Mississippi*)

Both the right to have speakers and student responsibility for the procedures are stressed in a Louisiana code:

ACCESS TO OUTSIDE SPEAKERS

A. Right

Recognized, approved student organizations have the right, with the approval of the principal, to present appropriate outside speakers, films, and other media which afford an opportunity for cultural development or academic accomplishment.

B. Responsibility

Students have the responsibility to petition for speakers through the established procedures of the school. They must also inform the speaker of the guidelines for such presentations and assemblies as prescribed by the principal.

(*East Baton Rouge, Louisiana*)

To ensure understanding and compliance, rules and regulations pertaining to these matters should be formulated, discussed, and published well in advance of preparation for and conduct of such programs. In the interests of sound education, students should hear both sides of an issue.

5. Association and Participation

Inasmuch as it is a right to attend public school, it is also a right to participate in the programs the school offers. If there are rules or regulations that deny any student access to an educational program or school activity, they must be educationally sound and reasonably applied. The existence of a historical educational practice is not evidence of its reasonableness. Specifically, if the practice discriminates through stereotype and custom, it may be illegal. It is also recommended that school districts review and reconsider any policy that prohibits a student from participating in student government and associated acitivites solely on the basis of academic achievement.

You have the right to join political and social organizations in or outside of school even if they are controversial or promote an unpopular cause. The school cannot discriminate in allowing recognized student groups to use school facilities. Those facilities should be equally available to all recognized student groups. The school does not have to recognize a particular type of group, for instance, political groups. However, if it were to recognize one student political group, it would have to recognize all similar groups.

New Jersey law prohibits fraternities and sororities in public schools whose membership selectively picks its new members. These groups are considered to be bad for the democratic principles of the school.

(*Newark, New Jersey*)

Students have the right to form political and social organizations. Students have the right to be involved in school activities, if they so desire, without being subject to discrimination on any basis, provided they meet with the reasonable qualification of sponsoring organizations.

(*San Francisco, California*)

COCURRICULAR ORGANIZATIONS

A. Students shall have the right to form and participate in cocurricular organizations such as clubs.
B. Student organizations that conduct activities on school grounds must obtain authorization from the principal and must have faculty supervision, or such other adult supervision as may be approved by both the students and the principal.

Implementation Guidelines

COCURRICULAR ORGANIZATIONS

Faculty and administration shall encourage students to form and participate in a variety of student organizations as a means of enhancing their educational ex-

periences and enabling them to render services to their school and community.

(*Montgomery County, Maryland*)

Furthermore, most schools require student organizations and clubs to register with the school in order to obtain available school funds, the use of school facilities, or both. The school must register any group organized for a purpose not prohibited by law if the group submits a list of members designated as contacts, its constitution and bylaws, and the constitution and bylaws of any off-campus organization with which it is affiliated. The school may not require a student group to submit a membership list as a requirement for becoming or remaining registered.

Before a decision is reached to ban, discontinue, or discipline a student group, the group should be provided a due process hearing. Interfering with school discipline, failing to abide by the terms under which the group was approved, and presenting a clear threat to the health or safety of members of the school community are valid reasons for disciplinary action.

Affiliation with a national organization with an objectionable philosophy is not grounds to deny recognition to a school group. Advocacy directed to inciting or producing imminent lawless action and activities is sufficient reason to deny recognition to a student group. However, the burden of proof is on the school officials. Student organizations cannot restrict membership on the basis of race, sex, national origin, or any other arbitrary criteria. Within the limits of existing expenditures in any one school year, any student attending public school shall have an equal opportunity to participate in activities, programs, and courses of study offered in that public school. Under new federal regulations, all school athletic events must be run on a sexually nondiscriminatory basis.

STUDENT ORGANIZATIONS

It is advisable to adopt procedures for the establishment of student organizations.

Such school board policy cannot infringe upon students' constitutional rights and should be flexible enough to provide for the differing needs of groups. Student organizations may not advocate or be formed for illegal purposes, nor may they discriminate against applicants in terms of race, creed, sex, or national origin.

(*State of North Dakota*)

Students may form political and social organizations, including those that champion unpopular causes. These organizations, however, must be open to all students and must abide by Board of Education policies as developed in guidelines established by the student government acting in concert with the principal. These organizations shall have reasonable access to school facilities.

Faculty advisors shall be appointed by the principal after consultation with the student group.

(*New York City*)

EXTRA-CLASS ORGANIZATIONS, COMMONLY REFERRED TO AS CLUBS AND STUDENT ORGANIZATIONS

Students shall have opportunities to participate in a variety of extraclass organizations that are related to school activities. All student organizations that conduct activities on school premises and during

school hours must be authorized by the principal and must have faculty supervision.

No student shall be penalized by the school because of his or her activities in organizations that are not school approved, sponsored, or controlled, and which do not meet on school premises or during school hours or otherwise associate themselves with or disrupt the school program.

(*Alexandria, Virginia*)

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6. Personal Appearance: Dress and Grooming

Essentially, students have been allowed to govern their own appearance. For limiting or curtailing student dress and grooming, the state has a "substantial burden or justification." For regulations on hair length to be valid, the school board must show that there is an overriding public purpose to be served by limiting students' rights to appear in school with long or short hair. Such justification might include evidence that the length or style of hair constitutes a health or safety hazard, but only after the fact and not in the form of prior restraints. Where hair length is a problem, as in shop class, some type of head covering may be required. The student's right to govern the length of his or her hair also includes facial hair.

A school board or school official may not impose limitations on dress in which fashion or taste is the sole consideration, even if a majority of students have approved a student dress code. School authorities may require certain types of clothing to be worn in special extracurricular activities (such as band, athletics, and physical education).

Most schools simply address issues of personal appearance by stating the students' right to decide but limiting this choice on the basis of safety and health as shown in the New York, Detroit, Newark, and North Dakota school codes:

Students have the right to determine their own dress, except where such dress is clearly dangerous, or is so distractive as to clearly interfere with the learning and teaching process. This right may not be restricted even by a dress code arrived at by a majority vote of students as Dr. Ewald Nyquist, New York State Commissioner of Education, held last year in decisions nos. 8022 and 8023.

(*New York City*)

Dress style or hair length cannot be restricted unless it is dangerous to a student's health or safety or it would clearly be disruptive. Thus, the school could forbid such things as bare feet.

A student cannot be denied the right to participate in any school club or on any team merely because of the way he dresses or the length of his hair.

(*Newark, New Jersey*)

STUDENT DRESS

Students have the right to express their own individuality in their wearing apparel, provided that the dress does not, in the judgment of the school principal or his designee(s) present a health or safety hazard or create such a distraction that it disrupts the classroom setting.

(*Detroit, Michigan*)

In 1971, the United States Court Appeals for the Eighth Circuit (which includes North Dakota) ruled that a student has "a constitutionally protected right to govern his appearance while attending public school." To limit or curtail this or any other fundamental right the state has a "substantial burden or justification."

For regulations on hair length to be valid, the school board must show that there is an overriding public purpose to be served by limiting students' rights to appear in school with long hair. Such justification might include evidence that long hair causes an actual disruption of the educational process, or that the length or style of hair constitutes a health or safety hazard, but only after the fact, and not in the form of prior restraints. Where length of hair is a problem, as in shop class, some type of head covering may be required. The student's right to govern the length of his hair also includes facial hair.

A school board or school officials may not impose limitations on dress in which fashion or taste is the sole consideration, even if a majority of students have approved a student dress code. A student may not be excluded from regular instruction because of his appearance if style, fashion, or taste is the sole criterion for such exclusion. Students may be required, however, to wear certain types of clothing while participating in physical education classes, or in extra-curricular activities such as band.

Students have the responsibility of refraining from hair or dress which will disrupt the educational process or are a health or safety factor. Courts have been inclined

to back the board where it was demonstrated that a reasonable rule was necessary to limit hair length and dress in the interests of cleanliness, decency and decorum in school.

(*State of North Dakota*)

The Illinois school code stresses an important point—rules on appearance should not be based upon personal taste and fashion:

PERSONAL APPEARANCE

Rules about hair style and dress are not to be based upon personal taste and fashion. School officials may regulate dress and hair styles when such styles present a health or safety hazard or substantially disrupt the educational process.

(*State of Illinois*)

The Montgomery County, Maryland, code suggests a method for working with students regarding their choice of dress:

DRESS AND GROOMING

Student dress and grooming are the responsibility of students and their parents, except in situations where the standard of dress and grooming is a reasonable requirement of a course or activity, is necessary for reasons of health and safety, or disrupts school proceedings.

Implementation Guidelines

DRESS AND GROOMING

School personnel may counsel students who affect extreme styles of dress and grooming about styles more appropriate to the school setting, but no student may be disciplined nor any reprisal taken against students because of the way they dress and groom themselves unless that dress or grooming is likely to cause or does cause a disruption of school activities or presents a health or safety hazard.

(*Montgomery County, Maryland*)

Some schools, however, focus on appearance issues in detail and suggest "principles" by which students should make these choices, or actually try to spell out, or both, for the student ways of dressing:

In 1971, the United States Court of Appeals for the Eighth Circuit (which includes South Dakota) ruled that a student has "a constitutionally protected right to govern his appearance while attending public school." To limit or curtail this or any other fundamental right, the state has a "substantial burden of justification."

The school board, as agents of the state, must show that there is an overriding public purpose to be served by limiting students' rights to appear in school with long hair. Such justification might include evidence that long hair disrupts the ongoing school program, or invades the rights of others, or is a health or safety hazard, but only after the fact, and not in the form of prior restraints.

Students have the responsibility of refraining from hair or dress which will disrupt the school or are a health or safety factor. Courts have been inclined to back the board where it was demonstrated that a reasonable rule was necessary to limit hair length and dress in the interests of cleanliness, decency and decorum in school.

(*State of South Dakota*)

GENERAL CONDUCT AND DRESS

Student Dress

Dress, manner, and general grooming shall be consistent with the highest public standards. Rules and regulations consistent with these standards have been developed under this Code. Exceptions may be al-

lowed when students are involved in special programs such as choral concerts, sports activities, or dress-up days.

Responsibilities:

- Students have the responsibility to observe the basic standards of cleanliness, modesty, and good grooming and dress.
- Students have the responsibility to wear clothing which contributes to their own health and safety as well as that of others.

Rights:

- *Students have the right to be able to learn without being offended and/or distracted by the clothing or appearance of others.*
- *Students have the right to wear clothes which are attractive, fashionable, modish, or "in fad", provided they are properly fitted and not hazardous or harmful to themselves or others. (Examples: long dresses or exceptionally high platform shoes in buildings with stairs, hair fashioned such that it hangs in eyes)*

Unacceptable Behavior:

1. Inappropriate, suggestive, and/or distracting appearance and dress:
   a. Bare midriff, see-through clothing without appropriate undergarments,

Consequences:

Plan A:

1. *Teacher/student conference*
2. *Disciplinary action initiated by teacher (detentions; composition expressing awareness of*

Unacceptable Behavior (*cont.*):

halters, backless dresses, tube tops, and tank tops (unless covered by appropriate outer garment)

b. Shorts (except Grades K through 5)

c. Caps or hats in school buildings (except for special occasions such as color day or spirit week)

d. Tailed shirts or blouses left untucked or tied at midriff, or any clothing improperly fastened

e. Clothing, with words, phrases, symbols, pictures, patches, or insignia which are obscene, profane, or drug or alcohol related

f. Hair grooming accessories in hair; or combing, brushing, or

Consequences (*cont.*):

seriousness of offense, reviewed and signed by parents; etc.)

3. *Consequence appropriate to misconduct*
4. *Teacher/parent contact.*

Plan B:

1. *Teacher/student conference*
2. *Temporary removal/isolation from class*
3. *Team conference (teacher, parent, counselor)*
4. *Guidance referral to visiting teacher*
5. *Administrative referral*
6. *Corporal punishment*
7. *Internal suspension from classes*
8. *Internal suspension from classes and all school activities*

NOTE: In addition, where appropriate and applicable, parents may be requested to bring to the school

Unacceptable Behavior (*cont.*):	Consequences (*cont.*):
otherwise dressing hair anywhere except in restrooms	*clothing which will conform to the Code.*
• Clothing and styles hazardous to health and/or safety which are not allowed: a. Bare feet b. Zori or thongs c. Sunglasses inside buildings unless a medical permit is on file d. Hair improperly secured for hazardous locations and/or activities (shop, etc.) e. Excessively high platform shoes, or clogs f. Dresses, ankle-length or longer.	*Plan A:* 1. *Teacher/student conference* 2. *Disciplinary action initiated by teacher (detentions; composition expressing awareness of seriousness of offense, reviewed and signed by parents; etc.)* 3. *Consequence appropriate to misconduct* 4. *Teacher/parent contact* 5. *Guidance referral.* *Plan B:* 1. *Teacher/student conference* 2. *Temporary removal/isolation from class* 3. *Team conference (teacher, parent, counselor)* 4. *Guidance referral to visiting teacher* 5. *Administrative referral* 6. *Corporal punishment*

7. *Internal suspension from classes*
8. *Internal suspension from classes and all school activities.*

NOTE: In addition, where appropriate and applicable, parents may be requested to bring to the school clothing which will conform to the Code.

- Failure to meet minimum standards of cleanliness

**Suggested Corrective Measures*

1. *Teacher/student conference*
2. *Teacher/parent conference*
3. *Guidance referral*
4. *Referral by guidance to visiting. teacher*

(*Broward County, Florida*)

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7. Student Involvement

Increasingly, school authorities recognize the importance of student participation in determining the nature of their education and are providing channels through which students can substantially contribute to determining codes of conduct, which courses are taught, the content of the courses, and methods of evaluating both the courses and their own performance.

The degree of student involvement is often a function of age, grade, maturity, and sophistication of students, on one hand, and the level and complexities of courses, on the other. As noted in the following illustrations, students' opinions as to the impact of conduct codes and discipline procedures and courses of study can be extremely important and deserve careful analysis and full consideration.

Local school districts can benefit from student participation in improving the quality of the student's education, by involving students in the development of curriculum, codes of discipline and conduct, as well as in the process of school governance. The school principal should be contacted about specific details.

(*State of Illinois*)

- Students have the right to democratic representation in administrative committees affecting students and student rights.
- Students have the right to participate in the development of rules and regulations to which they are subject and the right to be notified of such rules and regulations.

(*San Francisco, California*)

Students shall have the right to participate in decisions affecting the curriculum through student representatives duly designated by the Student Government.

Students shall have the right to participate in the establishment of regulations regarding discipline through student representatives duly designated by the Student Government.

(*Philadelphia, Pennsylvania*)

The quality of education in the public schools is of individual concern to students. The student receiving an education is generally in one of the best positions to evaluate when actual learning has taken place. Because a student's life is influenced by the quality of education received, a student should have the right to evaluate the educational program. The evaluation should include, but not be limited to, class size, adequacy of facilities, materials and equipment, curriculum offerings, requirements for graduation, and staff.

It is a student's right to expect:

- safe, pleasant, and well-equipped schools and school grounds
- competent teachers, administrators, and other personnel necessary to meet his or her needs
- up-to-date educational programs with limitations placed on the class size that will be most productive to the learning process
- sufficient personnel to execute good comprehensive programs
- a rich and varied supply of teaching-learning materials

THE RIGHT TO PARTICIPATE IN THE GOVERNANCE OF A SCHOOL

Every reasonable effort should be made by the principal and the professional staff to inform students in advance of the regulations and policies to which they are subject, as well as the rights they may exercise.

Where appropriate, students have the right, through duly designated student representatives, to share in the formulation and the periodic review of regulations and policies within their school which affect their education and welfare.

Students have the right to participate at the local school level, where appropriate, in decisions affecting the curriculum through duly designated student representatives.

Students have the right to present grievances and to anticipate a reaction to their concerns when such grievances are legitimate.

Students have the right to an elected and representative student government in which all students are allowed to vote and offices are open to interested students regardless of academic achievement or disciplinary record.

Students elected or appointed to school offices have the responsibility to provide sound leadership, to exercise good judgment in decision-making, and to set an example for others by their efforts to shape student government into a positive instrument of student involvement.

Students have the right to use available instructional facilities and resources such as the library, media center, laboratories, etc., during regular school hours and at other reasonable times the principal may designate. Students have the right to use school facilities such as classrooms, auditoriums, etc., after regular school hours just as adult groups do. Such access shall carry with it the responsibility for good conduct and respect for school property. General limitations which apply are:

- The availability of adult supervision.
- Such access does not affect the orderly operation of the school and does not interfere with the educational rights of other students.
- Such access is in accordance with the established regulations for the use of school facilities after school hours which might include a nominal rental fee.

Students have the right to freedom of movement within the school as long as such

movement is in accordance with the conditions set forth in the preceding four paragraphs and is for a definite meaningful or approved purpose, and does not conflict with established rules and regulations.

(*New Orleans, Louisiana*)

Many school districts throughout the United States have realized not only the value and benefit in involving students in educational evaluation, planning, and governance but also novel ways of involving them. For example, some school districts have included students as ex officio members of the local school board; others involve students in curriculum committees or discipline code committees; and others have used students' evaluations as one means of judging the classroom skills of teachers.

Students, especially students who have difficulty in school, may attain much valuable experience in such involvement and may gain a totally new (and positive) perspective of the school and the school staff. Both students and school officials should explore new ways of assisting each other to make the educational system unique, effective, and challenging.

STUDENT PARTICIPATION

A. Planning Classroom Activities

1. In each course and at each grade level, students have the right to participate in establishing learning objectives, suggesting interest areas, planning class-

room activities, and evaluating the course. Such participation shall not abridge the curricular requirements of the State of Maryland and the Montgomery County Public Schools' *Program of Studies.*

2. Student suggestions and recommendations concerning course offerings, their content, and the instructional materials used shall be permitted and shall be actively solicited by the faculty and administration.

B. Assembly Programs

1. Students and faculty shall work jointly on selecting, planning, and conducting assembly programs.
2. The principal is responsible for determining that the choice of topics and speakers is consistent with MCPS Goals of Education, and the principal shall determine whether attendance shall be voluntary or required.

C. Student-planned Educational Programs

1. Programs Scheduled Outside the School Day
   a. Students, in consultation with faculty advisors, may hold voluntary programs of interest to students outside of the school day.
   b. Students shall have the prime responsibility for the nature, content, planning, and conducting of these programs.

c. These programs may be disapproved by the principal only if the activity or content is in violation of law or Board of Education policy.

2. Programs Scheduled During the School Day

   a. Students, in consultation with faculty, may organize seminars or short courses of study on selected topics during the school day as alternatives or additions to the regular school program, subject to the approval of the principal.

   b. Students shall participate in the selection of appropriate topics and speakers.

   c. The principal has the responsibility for assuring that there has been planning for a balanced presentation on controversial topics.

D. Development of Policies, Programs, and Rules

Students, through their elected student government or other authorized student organizations, have the right and responsibility to participate in the development and the revision of major MCPS and local school policies, programs, and rules which affect them. They further have the right to be notified reasonably in advance of the date of establishment of such policies and rules. Notification of these policies and rules shall be the responsibility of the school administration.

Implementation Guidelines

STUDENT PARTICIPATION

A. Planning Classroom Activities

Faculty and administration must actively involve students in the learning process at levels consistent with student interest, ability, and maturity. In each course and at each grade level, teachers must encourage students to participate in establishing learning objectives. Generally, such learning objectives will supplement the course objectives outlined in the *Program of Studies*, will provide specific performance objectives, or will establish individual objectives suited to the learning needs of each student. In this regard, the policy on *Evaluating and Reporting Student Progress* requires that "students shall be informed of the general objectives of each course or unit and of the basis upon which their performance will be evaluated." Additionally, students should be involved in suggesting interest areas, planning classroom activities, and evaluating the course. Faculty and administration shall also provide an opportunity and encouragement for students to offer suggestions and recommendations concerning course offerings, course content, and instructional materials to be used.

Such involvement of students may continue throughout the course, but should not be permitted to interfere with instruction or with the accomplishment of the

objectives for curricular offerings as stated in documents from the State Department of Education and in the Montgomery County Public Schools' *Program of Studies.* Suggestions may be requested in writing if the use of class time for planning activities is unduly delaying the instructional timetable.

Students have a responsibility to avail themselves of these opportunities for participation in classroom activities and to assist in establishing and carrying out the classroom rules and procedures which allow such activities.

B. Assembly Programs

Staff members shall make every effort to involve students in selecting, planning, and conducting assembly programs. Staff members and students should work jointly with the principal as planning of assembly programs is in progress to insure that these programs are consistent with MCPS Goals of Education. The principal's determination as to whether attendance at the program shall be voluntary or required shall be based on the nature and content of the program.

C. Student-planned Educational Programs

1. Programs Scheduled Outside the School Day

Voluntary forums of interest to students held outside of the regular school day are to be encouraged, and principals should support student efforts in securing faculty

sponsors. When these forums are student initiated, students will assume prime responsibility for their nature, content, planning, and conduct. These forums may be disapproved by the principal only if the activity or content is in violation of law or Board of Education policies.

2. Programs Scheduled During the School Day

Student-planned programs of seminars or short courses of study on selected topics during the school day should be encouraged in order to add variety and interest to the educational experience. Students organizing these programs shall share with their faculty sponsors and with the principal the responsibility for making sure the topics chosen are consistent with the MCPS Goals of Education; that they are appropriate to the level of maturity and intellectual ability of the students; and that the outside speakers, if any, are qualified to present the subjects for which they are chosen. Every effort must be made to assure a balanced presentation of controversial topics. The principal is responsible for seeing that a proposed program conforms to these guidelines and is responsible for final decisions regarding the program.

D. Development of Policies, Programs, and Rules

Any office, department, or committee developing or revising a major MCPS policy affecting students will involve students in the revision or development of that policy. Such involvement may be accomplished by

including student government representatives in meetings or through soliciting input at several stages of the process of policy development or revision from a widely based representative sampling of students.

In the revision or development of a major local school policy, program, or rule affecting students, there must be similar involvement of students at the local school.

Reasonably in advance of the date of establishment of policies and rules affecting students, principals will make available to students copies of such policies and rules through the media center or by posting them in locations convenient to students. An announcement should be made indicating the location of the policies and encouraging students to examine them. Staff members are encouraged to discuss with students any major policy affecting students at available opportunities and to provide information and clarification as needed. Throughout the school year copies of any rules or policies affecting students should be available for examination by students.

Students regularly participate in the development of systemwide policies, programs, and rules through such arrangements as student membership on the Council on Instruction, student involvement on various MCPS committees and task forces, and input from the countywide student government organizations. MCPS Regulation 255-1, *Establishing Systemwide Committees,* outlines the procedures for the superintendent to appoint systemwide committees and explains that nominations of students are obtained from school principals and/or the teacher specialist for student affairs. Students who are interested in volunteering for such commit-

tees should notify their principals or student governments, in writing, of their interest and the specific area of desired involvement.

(*Montgomery County, Maryland*)

Another constructive means of involving students in the developing, planning, and evaluating of discipline codes, curriculum, and instruction is a faculty-student curriculum committee composed of student, faculty, administrative, and board or board-appointed representatives. Such a group could review existing curriculum offerings and explore possible changes and additions on an annual or other regularly established basis.

A Virginia code suggests another method by which students may become involved:

STUDENT ADVISORY COUNCIL

i. The Fairfax County Student Advisory Council (SAC) shall be composed of one elected representative from each high school who shall be chosen annually from the membership of the school's delegation to the area SAC. School Board meeting agenda and summaries shall be provided to all members of the Fairfax County SAC, and background materials for Board meeting subjects

shall be given to the chairperson of the Fairfax County SAC on particular items upon request.

2. Representatives designated by the Fairfax County SAC shall be welcome to appear before the School Board from time to time to comment on specific agenda items of interest to the Fairfax County SAC and to submit in writing their views on any subject.
3. The Fairfax County SAC shall elect its own officers and shall have the power to adopt bylaws necessary to fulfill its purposes.
4. Each administrative area shall have an area SAC with a purpose similar to that of the Fairfax County SAC. Selection of the members of the area SAC shall conform to the following:
   a. Each council shall be composed of an equal number of students from each high school.
   b. The method of choosing representatives shall be determined by the student government in accordance with chapter II, Section A. Absences from school on official business of the Fairfax County SAC or the area SAC shall be those so designated by the area superintendent.
   c. Absences on official area or county SAC business shall be excused absences from school.

(*Fairfax County, Virginia*)

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8. RELIGION

The U.S. Supreme Court has ruled that general prayer or other religious activities used in the public schools for the purpose of furthering religious beliefs is unconstitutional. Interpretations of U.S. Supreme Court decisions have led to the removal of voluntary nondenominational prayer services in the public schools.

Students wishing to practice their own religion during the school day have the right to be released for religious instruction. A parent may request that their youngster be released for a given time period (e.g., one hour per week) for religious instruction. However, religious instruction must occur off the school grounds. In addition, the student's parents or some one *in loco parentis* must be responsible for this student until he or she returns to school. Here is what several schools have to say about religious activities:

Students have the right to refuse to participate in school activities which are contrary to their moral, religious, or political beliefs.

(*Washington, D.C.*)

The United States Supreme Court has ruled that general prayer or other religious activities used in the public schools for the purpose of furthering religious beliefs was unconstitutional. Interpretations of United States Supreme Court decisions have led to the removal of voluntary nondenominational prayer services in the public schools.

However, students wishing to practice their own religion during the school day have the right to be released for religious

instruction. North Dakota Century Code states, "Upon request of an elementary or high school student's parent or guardian, the school board of a public school district shall release such student for a period of not to exceed one hour per week for religious instruction, at such times as prescribed by the school board after consultation with the parent or guardian of such students."

(*State of North Dakota*)

FREEDOM OF RELIGION

A. Notwithstanding any other provisions in this policy statement, schools shall not conduct religious exercises nor sanction or support any particular religious beliefs or practices.

B. A student has the right to observe his/her own religious beliefs and practices in school, provided the practices do not violate the rights of others nor disrupt or interfere with school activities.

Implementation Guidelines

FREEDOM OF RELIGION

A. Schools shall not conduct religious exercises nor affirm any body of religious beliefs or practices and shall in no way

sanction or support any particular religious beliefs or practices. No curriculum offerings or other programs during the school day and no afterschool events such as holiday concerts may be of a religious nature. Guidelines on holiday music are stated in *Guidelines for Selection of Music Relating to Cultural, Ethnic, and Religious Contexts,* December, 1972. Elective seminars treating religious subjects in an historical or purely academic context (such as History of Religion or Comparative Religion) are not prohibited as long as they are factually objective and do not attempt to persuade students toward any religious point of view.

B. No student shall be deterred from observing his/her own religious practices in school provided the practices do not violate the rights of others nor disrupt or interfere with school activities.

(*Montgomery County, Maryland*)

In addition to the aforementioned, students shall be free to study, examine, discuss, criticize, or support religious ideas and institutions, just as they might explore any other academic subject. Freedom to practice one's religion shall be denied to an individual only on occasions when his or her acts substantially and directly endanger physical health or safety, damage property, or seriously and immediately disrupt the activities of others.

FREEDOM OF RELIGION

The Constitution of the United States guarantees the separation of church and state. The public schools are considered an extension of the State. Due to these factors, religious services will not be held at school. However, after prior arrangements are made, students may have limited release time to attend religious functions off campus. The students' parents, or some other designated individuals, are responsible for the students until they return to school. Since freedom of religion is guaranteed, this privilege only may be denied when a student's acts interfere with school activities, present health and safety hazard, damage property, or interfere with the rights of others.

Each individual's religious beliefs will be respected in regard to attending or watching school programs, plays, television, films, programs, and physical education classes. A student may be held accountable for the educational content of films, lectures, or programs presented to classes or specified groups. An individual may also be required to change from "street clothes" to appropriate clothing for physical education, band, etc.

(*State of Mississippi*)

No one may require students to pray or read the Bible in school or to attend religious activities in school. This does not mean that religion cannot be mentioned in school. The Bible, Koran, or any other

authentic religious document can be studied in school as works of literature. The school may also conduct academic studies of religions.

(*Newark, New Jersey*)

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9. Patriotic Ceremonies: Pledge of Allegiance and National Anthem

Freedom from enforced patriotism is one of the oldest defined rights of students. Students are being allowed to refrain from patriotic ceremonies as long as they do not show disrespect to the flag of the United States or do not prevent or encourage others to refrain from such activity.

The state, school board of a local school district, or both may legally provide for a flag salute and Pledge of Allegiance as a regular school exercise. However, students may decline to recite the Pledge of Allegiance and may refrain from saluting the flag on the basis of personal belief or religious convictions. Students may also refrain from standing during the playing of the national anthem. Students who choose to refrain from such participation have the responsibility to respect the rights and interests of classmates who do wish to participate in a meaningful ceremony. A student who chooses not to participate may remain seated while his or her classmates recite the pledge, and so forth; the student is not required to stand during the ceremony. A student may decline to participate in patriotic ceremonies without securing permission from his or her parents.

PATRIOTIC EXERCISES

A. Students shall have the opportunity to participate in and/or observe patriotic exercises in their schools.

B. No student shall be required to take a loyalty oath, say a pledge, sing an anthem, or take part in patriotic exercises.

C. Students shall not interrupt the participation of other students in patriotic exercises.

Implementation Guidelines

PATRIOTIC EXERCISES

Schools shall, in conformity with Article 77, Section 77, of the state law, provide for patriotic exercises such as the Pledge of Allegiance to the Flag. MCPS Regulation 275-3, *Display of the United States and Maryland Flags,* states the policies which apply to both the display of the flag and patriotic exercises and provides, among other things, that the principal or his/her designee shall be responsible for (1) assuring that opening exercises, including the salute and pledge to the flag are conducted daily in each class in an elementary school, in each assembly in elementary and secondary schools, and at other programs as appropriate; and (2) encouraging students to participate in these exercises and the salute to the flag.

Where possible, patriotic exercises should be a learning experience for students; and staff members are encouraged to involve students in the planning and production of such exercises.

Teachers and pupils cannot be compelled to pledge allegiance to the flag nor be required to participate in patriotic exercises; and they may not be penalized or embarrassed for failure to do so. However, students who attempt to interfere in any way with the participation of other stu-

dents in such exercises are subject to disciplinary action. Students continue to have a responsibility for school attendance although they elect not to participate in specific patriotic exercises.

(*Montgomery County, Maryland*)

The school board may legally provide for a flag salute and pledge of allegiance as a regular school exercise. Participation by students in these exercises, however, cannot be required of any student who objects to them on grounds of conscience.

Courts are divided on the issue of whether students who are excused from these exercises have the right to remain seated rather than to stand quietly or leave the room. Any reasonable rule which takes into account both the individual's interests and those of the board of education would be considered legally acceptable.

A state law makes it a misdemeanor to wilfully and maliciously abuse or show contempt for the flag of the United States of America.

(*State of South Dakota*)

It is the responsibility of every citizen to show proper respect for his or her country and its flag. The North Dakota state law makes it a misdemeanor to willfully and maliciously abuse or show contempt for the flag of the United States of America.

The school board may legally provide for a flag salute and pledge of allegiance as a regular school exercise. However, students

may decline to recite the Pledge of Allegiance and may refrain from saluting the Flag on the basis of personal belief or religious convictions.

Courts are divided on the issue of whether students who are excused from these exercises have the right to remain seated rather than to stand quietly or leave the room. Any reasonable rule which takes into account both the individual's interests and those of the school board would be considered legally acceptable.

Students who choose to refrain from such participation shall have the responsibility of respecting the rights and interests of classmates who do wish to participate in a meaningful ceremony.

(*State of North Dakota*)

Students may decline to recite the Pledge of Allegiance and may refrain from saluting the flag (*West Virginia State Board of Education* v. *Barnette*, 319 U.S. 624; 87 L. Ed. 1628; 63 S. Ct. 1178). Students who choose to refrain from such participation have the responsibility to respect the rights and interests of classmates who do wish to participate in a meaningful ceremony. A student who chooses not to participate may remain seated while his classmates recite the pledge; the student is not required to stand during that ceremony. (*Goetz* v. *Ansell*, 477 F. 2d. 636). A student may decline to participate in the salute to the flag and the Pledge of Allegiance without securing permission from his parents (*Matter of Bustin*, 10 Ed. Dept. Rep. 168).

(*State of New York*)

It is of interest to note that the courts are divided on the issue of whether students who are excused from these exercises have the right to remain seated rather than to stand quietly or leave the room. Any reasonable rule that takes into account both the individual's interests and those of the school board would probably be considered legally acceptable.

PATRIOTIC CEREMONIES

Patriotic ceremonies are almost synonomous with American public gatherings, schools, and clubs.

Each School Board may legally provide for a flag salute and pledge of allegiance as part of a school's daily activity. However, any student on the basis of personal or religious convictions, may decline to recite the pledge or salute the flag.

Students may also refrain from standing during the playing of the National Anthem. Students who refrain from participating in any patriotic ceremony have the responsibility of respecting the rights and interests of those wanting to participate.

(*State of Mississippi*)

PATRIOTIC CEREMONIES

The school will have, from time to time, patriotic programs or ceremonies that may include the National Anthem and/or the Pledge of Allegiance. Students who wish not to participate in these programs be-

cause of religious or personal beliefs will *not* be required to stand, sing the National Anthem, recite the Pledge of Allegiance, or express patriotism in any way. If a student chooses to leave a patriotic activity, he will be provided a place to go.

(*State of Mississippi*)

New Jersey Law says that you must stand respectfully during the formal saluting of the flag. However, you have the right not to recite the Pledge of Allegiance for conscientious reasons while your classmates are reciting it. If you choose not to salute the flag, be sure to inform your teacher and principal of your reason.

Some courts have ruled that a student may refuse to stand since that does not interfere with the rights of other students or disrupt school activities. If you feel that to stand without actually reciting the pledge of allegiance is not a violation of your conscience, then you should stand. If, on the other hand, you feel that to stand has the same effect as actually reciting the pledge, and you choose not to stand, there is a question as to whether or not you have this right. Therefore, as previously mentioned, if you choose not to stand for the pledge, be sure to inform your teacher and principal of your reason. Be aware that if you refuse to stand you may be subject to disciplinary action.

(*Newark, New Jersey*)

B. STUDENT PRIVACY: SEARCH AND SEIZURE

Students possess the right of privacy of person as well as freedom from unreasonable search and seizure of property guaranteed by the Fourth Amendment of the U.S. Constitution. That individual right, however, is balanced by the school's responsibility to protect the health, safety, and welfare of all its students as noted in the following illustrations:

Students have the right to be secure in their persons, papers, and effects against unreasonable searches and seizures. The person and belongings of a student, including the student's locker, automobile, or other belongings shall not be subject to arbitrary or random searches and seizures. No search may be made without prior written approval of the principal, based upon probable cause, and stating the basis for such approval.

(*Washington, D.C.*)

PRIVACY

The Constitution of the United States guarantees the privilege of privacy, provided each individual observes and practices the rules and laws pertaining to this privilege. There are times when, for the well-being of a student, the school staff must be informed concerning health, family, or personal problems. Failure to pro-

vide such information will release the school from liability in these areas.

Responsibilities:	Rights
• Students have the responsibility to respect the rights, property, and privacy of other students and school personnel.	• *Students have the right to expect other students and school personnel to respect their feelings, rights, property, and privacy.*
• Students have the responsibility to carry only those materials which are acceptable under the law, and which are not hazardous to any person or property.	• *Students have the right to privacy in regard to their personal possessions, unless there is reasonable suspicion that the student is concealing material(s) prohibited by law.*
• Students have the responsibility to accept the consequences for the articles stored in their lockers.	• *Students have the right to know which materials may not be stored in lockers.*

(*Broward County, Florida*)

The last stronghold of the *in loco parentis* doctrine remains in the search and seizure phase of student rights. This especially is obvious in the right of school officials to search students' lockers and desks. Based upon the courts' interpretation that lockers are public and not private property, school officials have reserved the right to search property in the school, even though it has been assigned to students. The South Dakota student code alerts students that school officials

"not only have the right, but the duty, to inspect lockers." The Delaware code encourages school officials to keep "a written record of any such action (locker search)." The following examples illustrates search and seizure codes:

SEARCH AND SEIZURE

A student will be honored in his need for, and the right to privacy. However, all students must have the protection of health and safety. Therefore a student may be searched when there is believed to be a danger to the student or to other students. School officials may request a student to remove all items from his pockets or from other personal effects if:

1. There is reasonable cause for school authorities to believe that the possession of the suspected item constitutes a crime or a violation of school rules.
2. School officials have reasonable cause to believe that conditions or circumstances exist which threaten the health or safety of those in the school.

Student lockers remain the property of the Mukilteo School District and school officials retain the right and ability to inspect lockers. General searches of school property may be conducted at any time.

Procedures:

Illegal items determined to be a threat to the safety or security of others, shall be seized by the school authorities, the stu-

dent placed on Short Term Suspension and the parents summoned to an immediate conference. Cognizant civil authorities shall be notified.

Students who in the presence of an immediate danger, refuse to be searched, shall be placed on Short Term Suspension, the police notified immediately, and the parents summoned to the school.

(Everett, Washington)

SEARCH AND SEIZURE

- The administration reserves the right to search and seize when there is reasonable belief that some material or matter which is detrimental to health, safety and welfare of the student or students exist.
- Search/Seizure by law enforcement officials shall occur only when a warrant exists authorizing such search and/or seizure.
- When a search and/or seizure involving school property (locker, desk) is initiated, there should be a reason based upon the premise that the illegal possession of an item may endanger the individual's health and safety of others. **Emergency situations may necessitate a search with or without the student's knowledge or consent.** Whenever possible the student should be aware of and involved in a search of property assigned to him. In the absence of the student, a second party shall witness any search.

(Dallas, Texas)

Locker searches by school authorities without a search warrant have been generally upheld by the courts. Arbitrary and indiscriminate searches should be avoided, and all searches should be limited to a *reasonable* cause to believe that a student is secreting evidence of an illegal act. School officials should seek counsel prior to a search unless confronted with an emergency that poses a direct threat to the safety of the school community. The student should be given an opportunity to be present when the search is conducted unless, as previously stated, an emergency exists that threatens the safety of the school, individuals, or both.

In Louisiana, in 1975, a district court ruled in *State* v. *Mora* as follows: ". . . search on school grounds of students' personal effects by school officials who suspect presence or possession of some unlawful substance is *not* a specifically established and well-delineated exception to search warrant requirement, and fruits of such a search *may not* be used by the State as a basis for *criminal proceedings* against the student. Public school principals and teachers are government agents within purview of the Fourth Amendment's prohibition against unreasonable searches and seizures, thus their students must be accorded the constitutional right to be free from warrantless searches and seizures. Applicability of constitutional prohibitions against unreasonable searches is limited to cases where seizure is effected by government agencies, and at the same time fruits of searches and seizures conducted by private persons are not subject to exclusion." The Louisiana State Supreme Court upheld the aforementioned ruling.

The courts have consistently upheld that school authorities stand in place of parents in matters of student search and seizure. When school officials have a reasonable suspicion that contraband is secreted in a student's locker or on his person, they may act upon that suspicion and search the locker or student without the student's consent. Any illegal materials that are found may be used as evidence against the student in disciplinary, juvenile or criminal proceedings.

The courts have upheld the claim that school lockers are school property loaned to the student for his/her convenience. The search, therefore is not "illegal" under the Fourth Amendment of the Federal Constitution, but a reasonable exercise of board power in the interests of the health, welfare and safety of all school students.

Students shall be free from unreasonable search or seizure. To meet this standard the following guidelines are recommended:

- At the time of locker assignment students should be informed of the conditions and use governing the lockers.
- Search of a student's person should be limited to a situation in which there is reasonable assumption that the student is secreting evidence of an illegal act.
- Illegal items (weapons, drugs, etc.) or other possessions reasonably determined by the proper school authorities to be a threat to the safety or security of the possessor or others may be seized by school officials.
- The student should be given an opportunity to be present when a search of personal possessions is conducted unless an emergency exists. (e.g., bomb scare)
- Upon detection of illegal contraband the student should be provided with due process.

(*State of North Dakota*)

When principals or other school officials receive what they believe is reliable information that evidence of a crime is located on a student's person or his or her property, they should request assistance from the authorities and a valid search warrant should be secured. Likewise, the police should ordinarily not be permitted to search a student's property or locker without a valid search warrant unless the search comes within one of the exceptions to the Fourth Amendment's search warrant requirements.

FREEDOM FROM UNREASONABLE SEARCHES AND SEIZURES

Students have rights established and guaranteed by the Fourth Amendment to the United States Constitution protecting the right of privacy of their person and freedom from the unreasonable search or seizure of property. The following guidelines should apply to the seizure of items in the student's possession and the search of a student's school property (locker, desk): (1) There must be reasonable cause to believe that the student is in possession of an article, possession of which constitutes a crime or rule violation, or reason to believe that the student possesses evidence of the violation of a law; or (2) There must be reason to believe that the student is using his locker or property in such a way as to endanger his own health or safety or the health, safety and rights of other persons.

The school retains the right to search in emergency situations, such as a bomb threat or a belief that there are weapons or

dangerous materials on the premises. In the event of such a clearly defined emergency, if the student is not available to consent to the search of his locker, the principal or his designee(s) has (have) the right to enter. The student should be notified of such action as soon thereafter as possible.

(*Detroit, Michigan*)

It is suggested that the following determinations be made by school officials relative to the seizure of items in the student's possession and the search of the school property (locker, desk, etc.) assigned to the student:

- There is reasonable cause to believe that possession constitutes a crime or rule violation, or that the student possesses evidence of a crime or violation of law.
- There is reason to believe that the student is using his or her locker or property in such a way as to endanger his or her own health or safety or the health, safety, and rights of others.
- There is reason to believe that there are weapons or dangerous materials on the school premises. In such cases, school officials must retain the right to act—to search students' desks, lockers, or both, and to seize these weapons or dangerous materials in cases of emergencies (as in the event of fire or bomb threat).

When locker checks are made in the exercise of fundamental school authority, students should be informed within the context of general school rules at the beginning of each term. In cases of clearly defined emergencies and the lack of availability of the students assigned to a locker, the principal or his or her designee(s) possess the authority to enter the lockers. The student, however, should be informed as soon as possible.

Here is an illustration of the procedures that must be followed when conducting a search in some Maryland schools:

POLICY—RIGHTS AND RESPONSIBILITIES

Search and Seizure

A. Every principal, assistant principal, or authorized security officer of a public school may conduct a reasonable search of a student on the school premises if he/she has probable cause to believe that the student has in his/her possession an item, the possession of which constitutes a criminal offense under the laws of the State of Maryland. The search must be made in the presence of a third party who is of majority age.

B. Every principal, assistant principal, or authorized security officer of a public school may conduct a search of every part of the physical plant of the school and, upon reasonable cause, students' lockers. The right of these school officials to search lockers must be previously announced or published within the school.

C. Any confiscated property belonging to a student must be returned to the student or his/her parents within a reasonable time, except as required by law or by consideration of safety for students and staff.

D. At the time a student is searched, the student shall be informed of his/her right to appeal the legality of the search.

(*Montgomery County, Maryland*)

C. STUDENT GOVERNMENT

Elected student governments have traditionally symbolized democratic principles at work in our schools. Every student is eligible to vote and hold office. The right to vote and hold office is not contingent upon race, ethnic background, religion, beliefs, disciplinary record, achievement, evaluation of ability, or payment of student fees.

The Washington, D.C., and Philadelphia codes focus specifically on students' right to vote and hold office:

> Students have the right to free election of their peers in student organizations, and all students have the right to seek and hold office.
>
> (*Washington, D.C.*)

> In each high school there shall be established an elective and truly representative student directed government with offices open to all students. All students shall be allowed to vote. This government shall be elected annually on the basis prescribed by the constitution of each individual school.
>
> (*Philadelphia, Pennsylvania*)

The Montgomery County, Maryland, schools provide a more expansive statement and include the responsibilities of school staff toward student government:

100

STUDENT GOVERNMENT

A. The school administration and faculty must support the right of students to establish and participate in a student government organization in the school. The principal has the responsibility to assure that student government organizations provide students with a voice in school affairs and an open channel of communication with the administration and the faculty of their school. The student body has the responsibility to work toward effective student government. The student government has the responsibility to be informed and accountable to its constitutents.

B. The school administration shall respond to recommendations by the student government organization within five school days giving specific reasons in writing when the recommendations are not adopted or are modified.

C. Student participation in school government should be a goal of each school; and where student interest is evidenced, the principal should assist in developing such an organization. The school administration should provide advice as needed to students as they prepare a written constitution or amendments to the existing constitution. The principal may not disapprove nor subsequently abridge the constitution or any part of it unless it specifically violates law or Board of Education policy or may substantially interfere with the effective operation of the school. The reasons for such abridge-

ment must be stated in writing, and the decision of the principal may be appealed. The appeal procedures are discussed under Section XIII, Due Process. Should the constitution violate law or Board of Education policy, the principal should give students the opportunity to revise the constitution as needed before disapproving or abridging the document.

D. The school administration and the student government itself shall insure any student legally enrolled in the school has the right to hold office in student government in accordance with the organizational system established in the student government constitution. There may be no other eligibility requirements for student government officers at the local school level.

E. School staff members should encourage student support of and participation in the student government organizations and must honor excused absences from classes when such absences are recommended by the student government sponsor and are authorized by the school administration. Absences will be authorized by the school administration when they are justified for the conduct of student government business and do not impose unduly upon the academic program of the students involved. Staff members will permit the student government organization access to equipment, bulletin boards, and use of appropriate rooms during class hours insofar as requests can be justified and do not place undue burdens upon staff members or facilities or interfere with instruction.

The student government has a responsibility not to abuse these special privileges. Section II of this document provides that students have a responsibility to make up work missed, although the absence may be excused.

F. The principal and the Executive Committee of the Student Government will consult annually regarding the appointment of the student government sponsor; and the principal will give careful consideration to recommendations of students before appointing or reappointing the student government sponsor for the forthcoming year.

(*Montgomery County, Maryland*)

Charters for student government are more likely to become a realistic and supportive part of school operations if they are conceived, developed, approved, and regularly reviewed cooperatively by the full school community of students, faculty, and administration.

The student government charter should establish policies concerning:

- the purposes, structure, operation, and scope of the organization, including amendment procedures
- the rules for conducting elections and campaigns, including provisions ensuring minority group representation in the student government
- the degree to which a student body has power to allocate student activity funds
- the extent of the organization's access to the school's communications resources.

STUDENT ACTIVITIES

Section A: Student Government

1. In order that students may experience the responsibilities and rights of self-government and participate in the management and conduct of their affairs, a duly elected representative student government shall be established.
2. The student government, with the concurrence of the principal and appropriate faculty members, shall be responsible for the authorization, promotion, scheduling, and operation of student activities. Activities failing to meet the guidelines are subject to cancellation or restriction.
3. The student government shall require all student clubs and organizations under its leadership to develop constitutions and bylaws appropriate to their operation.
4. The student government, with the approval of the principal, shall establish election procedures and qualifications for student government and class office. The student government shall work to improve communication among the students, teachers, parents, and school officials. School officials shall consult with student government to obtain student opinion on general matters of curriculum, procedures, faculty-student relations, and discipline.

(Fairfax County, Virginia)

Once a charter has been drawn up and annually approved, the student government has the responsibility to act within its framework. All members of the school community share the responsibility for shaping student governments into positive instruments of student involvement. Activities or programs of the student government that fall within the approved framework of its charter are preferably not subject to student, administrative, or faculty veto.

The Philadelphia code focuses on the importance of the constitution for the student government while New York City addresses the role and power of its student government.

STATEMENT OF RIGHTS AND RESPONSIBILITIES

In each high school there should be established an elective and representative student government with offices open to all students. The student government will establish reasonable standards for candidates for office. All students should be allowed to vote in annual elections designed to promote careful consideration of the issues and candidates.

a. The student government shall have the power to allocate student activity funds, subject to established audit controls and the by-laws of the Board of Education. Extra-curricular activities shall be conducted under guidelines established by the student government. The student government shall be involved in the process of developing curriculum and of establishing disciplinary policies.

b. Representatives selected by the student government shall meet at least monthly with the principal to exchange views, to share in the formulation of school-student policies and to discuss school-student relations and any other matters of student concern.

(New York City)

STUDENT GOVERNMENT

A. The elected representatives of the students shall work with faculty, administration, and the student body in identifying those areas of appropriate student responsibility in the life of the school.

B. The organization, operation and scope of the student government shall be specified in a written constitution formulated and adopted by the students.

C. The student government shall have a faculty sponsor.

D. Clubs and other Student Organizations must be chartered according to provisions established in the constitution of the student government.

E. Each organization or club shall have a set of by-laws approved by the student government.
These by-laws:

- Shall not be in conflict with the constitution of the student government.
- Shall provide for a faculty sponsor.

- Shall provide for a roster of members on file with the student government.
- Shall set forth membership qualifications which do not exclude students based on race, color, sex, creed or political belief.

The student government has the authority to revoke the charter by any club that operates in violation of its by-laws.

(*Philadelphia, Pennsylvania*)

D. STUDENT RECORDS

The status of student records is for the most part still in the process of interpretation. Until clearer guidelines are provided by the courts, the schools reserve the right to place limitations relative to who will have access to these records. These limitations are now being challenged by the Family Education Rights and Privacy Act of 1974. Schools are, as a result of this legislative mandate, now taking a hard look at their previous codes on this subject.

STUDENT RECORDS

Any parent or guardian of a minor student, or a minor student who has the written consent of his parent or guardian, or a

student who is at least eighteen years of age has the right to inspect and review those records, files, documents or other materials, or pertinent parts thereof, which are maintained by the student's school and contain information directly related to the student. Such parent, guardian or student shall have access to such records at any time during the regular school hours. Opportunity will be provided for a hearing to challenge the content of the student's records in order to assure that the records are not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, and in order to provide an opportunity for correction or deletion of such inaccurate, misleading, or otherwise inappropriate data and to insert in such records a written explanation respecting the content of such records. Appropriate procedures are provided to protect the privacy of students and their educational records and to prevent release of such records to third parties without written consent of such student or parents, except in the case of compliance with a judicial order or pursuant to a lawfully issued subpoena and as otherwise provided under State law or the Family Educational Rights and Privacy Act of 1974.

(*Alexandria, Virginia*)

The New York City school policy is long, and we have selected a portion that highlights parameters under which school staff may access records:

ACCESS TO RECORDS BY SCHOOL STAFF

Within the parameters of confidentiality set forth in these regulations, principals and heads of offices shall restrict access to student records to those members of the professional and administrative staff whose duties and responsibilities require such access. This applies to all permanent and temporary records, including guidance records, medical and psychological records, and Bureau of Child Guidance records held by the school.

(*New York City*)

In the final analysis, the success of any written statement will depend upon how well the receiver understands the intent. It is here that school officials must use prudence, patience, and common sense in working with students.

The Fairfax County, Virginia, statement illustrates how schools can provide clear information on who may have access to records, how records can be accessed, and what to do if one wishes to challenge the content of a record:

STUDENT RECORDS

Maintenance and Transfer

An accurate cumulative record shall be maintained for every student enrolled in

Fairfax County Public Schools. School officials shall forward transcripts from the cumulative record upon request of parents legal guardians, eligible students, and exstudents to bona fide educational institutions in which the student intends to enroll.

Access to Records by Parents

Parents, by giving five days' notice to the principal, have the right to inspect and review any and all official records, files, and data directly related to their children, including the cumulative record and specialized records. Where such records or data include information on more than one student, the parents of any student shall be entitled to receive that part of the record as pertains to their child. Students with written parental consent also have the right to review these records. Parents and eligible students may obtain copies of records at cost to be determined annually and reflecting the actual cost of reproduction.

Challenge and Appeals Procedure

Parents who wish to challenge the content of their child's school records on the basis that they are inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, may do so by written request to the principal which details which record they wish to challenge and the reasons for challenge. Such challenge shall become a part of the record.

Students, as well as parents, may challenge the content of records. Challenges will be conducted according to the procedure for appeals in Chapter III.

Release of Data

1. Written consent of parents is required for the release of any personally identifiable records with the following exceptions:
   a. school officials including teachers but excluding aides within the system who have legitimate educational interest, or
   b. in response to any lawfully issued subpoena, providing that a reasonable effort is made to notify parents in advance of such compliance, or
   c. in connection with a student application for state or federal financial aid, or
   d. officials of other schools or school systems in which the student intends to enroll, or
   e. authorized representatives of (1) the Comptroller General of the United States, (2) the Secretary of HEW, (3) the Commissioner of Education, the Director of the National Institute of Education, or the Assistant Secretary for Education, or (4) state educational authorities, or
   f. organizations conducting studies for, or on behalf of, the Fairfax County schools for the purpose of developing, validating, or administering pre-

dictive tests, administering student aid programs, and improving instruction, or

g. accrediting organizations, or

h. parents of an eligible student.

2. As with other provisions of this Policy, the consent and rights of the parents of a student transfer to the student at age 18. Policy 2610.1 on student records provides more specific information and is available in each school for those who wish more detail.

(*Fairfax County, Virginia*)

Care should be exerted to see that the written policies are reviewed and changed as the situations may arise; otherwise, they may become obsolete with little relationship to their original purpose. One Louisiana code suggests that records be reviewed with a counselor:

OFFICIAL INFORMATION

Right

Parents or guardians have the right to review with a counselor all official files and data which pertain to the student personally. Students over eighteen years of age may make the same request. They have

a right to challenge the accuracy of the data through a formal hearing. Schools must produce such records for examination within 45 days of a written request.

Right

No official record, file, or data pertaining to any individual student and personally identifiable to him shall be released to anyone other than the student and/or his parents except as authorized by law unless the student and/or his parents have executed a written release of such information to a particular person or agency.

(*East Baton Rouge, Louisiana*)

E. RIGHT TO AN EDUCATION

A young person has a right to a free education through secondary school between the ages of 5 and 20 unless he or she graduates before that age. A student is required to attend regularly an approved educational institution until he or she is 16 years of age. He or she may not be asked to leave school merely because he or she has reached 16 years of age if he or she is, in fact, fulfilling his or her responsibilities as a student. The aforementioned responsibilities also require the student to follow and attempt to complete the course of study prescribed by his or her board of education.

A prized birthright of state citizens is that of an education at public expense for those

citizens between the ages of five and twenty-one unless they graduate from high school before the age of twenty-one.

It is the Student's Right to:	**It is the Student's Responsibility to:**
Attend school in the district in which his/her parent or legal guardian resides	Attend school daily, except when ill, and to be on time at all classes
Attend school until graduation from high school at public expense	Attend school until sixteen or complete the eighth grade
Obtain free textbooks and supplies needed in the course of study	Pay admission to activities if attendance therein is voluntary
Attend school at no expense even though married	Obey reasonable restrictions on married students where the board has such rules and regulations

(*State of South Dakota*)

QUALITY EDUCATION

Right

Students have the right to pursue, through study and self application, a quality education at public expense and to attain personal goals through participation in the entire school program.

Responsibility

In order to obtain a quality education, students must attend classes daily, be on time to all classes, and obey school and district regulations.

(*East Baton Rouge, Louisiana*)

RIGHT TO AN EDUCATION

New Jersey law guarantees a free education through high school to residents between the ages of five and twenty. State law requires you to attend school between the ages of six and sixteen.

(*Newark, New Jersey*)

The right to an education requires that code writers consider this when students are disciplined (e.g., suspension or expulsion) or acquire a special status. For example, school districts may determine policies for providing pregnant students with an educational program designed to meet their special needs.

SUSPENSION AND EXPULSION

A student between 5 and 21 years of age is entitled to a free public education. He may continue his secondary education as a post-

graduate student where he pursues on a full-time basis a vocational or occupational course of study after graduation (*Matter of Levy*, 13 Ed. Dept. Rep.—,Decision No. 8695, dated September 5, 1973; *Matter of DiBari*, 13 id.—, Decision No. 8734, dated November 14, 1973).

If a board of education seeks to exclude a student over the age of 16 years, it may do so only in accordance with statutory requirements calculated to assure full due process of law. A board of education need provide no further instructional program for an excluded student over compulsory attendance age (*Matter of Reid* v. *Nyquist*, 65 Misc. 2d 728; *Matter of Chipman*, 10 Ed. Dept. Rep. 224).

Where the board of education seeks to exclude a student under the compulsory attendance age, the board is required to provide alternative instruction for such child (Education Law, section 3214 subdivision 3(e)).

Preferably, minor disciplinary problems are handled within the school by teachers, with the principal dealing with the more serious disciplinary problems which could result in suspension. A teacher, guidance counselor, or an assistant principal may not suspend a student (Education Law, section 3214). The principal may suspend a student for a period not to exceed 5 school days where the board of education has adopted a bylaw which permits him to do so (Education Law, section 3214). Otherwise, only the board of education, board of trustees or sole trustee, district superintendent, or superintendent has the power to suspend students (Education Law, section 3214).

(*New York City*)

MARRIED OR PREGNANT STUDENTS

Neither marriage nor pregnancy affect your right to a free education. A pregnant girl may attend school as long as she is physically able. However, this schooling does not have to be at the student's regular school since the Newark school system has special classes for pregnant students. However, if you prefer, you can remain in your school.

(*Newark, New Jersey*)

F. DISCRIMINATION

Title IX of the Education Amendments of 1972, passed by the U.S. Congress, prohibits discrimination in federally assisted education programs against students and employees on the basis of sex. Almost all public schools in the United States receive federal financial assistance; thus, they are covered by Title IX. The regulations issued by the Department of Health, Education, and Welfare (HEW) to implement Title IX are specific and comprehensive. Effective as of July 21, 1975, the regulations require that all courses must be available on a coeducational basis. The regulations cover all related activities, including health, physical education, industrial, business, vocational, technical, home economics, music, and adult education courses.

Students have the right to participate in school activities without being subject to unlawful discrimination on any basis.

Where access to participation in programs or activities is on a competitive basis, each student has the right to an opportunity to compete on an equal basis.

(*Washington, D.C.*)

SUBSTANTIVE STUDENT RIGHTS ENUMERATED

In addition to other rights established by law, the following shall be substantive rights of students in the Mukilteo School System:

> No school district shall deny any pupil equal educational opportunity or discriminate against any pupil because of national origin, race, religion, economic status, or sex. No pupil shall be denied such opportunity solely because of pregnancy, marital status, previous arrest or previous incarceration.
>
> (*Everett, Washington*)

THE RIGHT TO FREEDOM FROM DISCRIMINATION

Students have the right to learn in an atmosphere free of the narrowing and stifling influences of social, religious and ethnic prejudice.

Students who are married or who are parents have the same educational rights and responsibilities as all other students.

Pregnant students may exercise their educational rights consistent with their condition as set forth by reasonable administrative regulations.

Students have the right without limitation by non-academic factors to receive a diploma or other standard of academic progress when appropriate requirements have been met.

Students have the responsibility to foster good human relations within the school by practicing courtesy and tolerance in their dealings with each other and members of the school staff.

(*New Orleans, Louisiana*)

THE RIGHT TO AN EDUCATION

No student shall be denied the opportunity to participate in any program offered by the Detroit Public Schools because of race, creed, color or national origin.

(*Detroit, Michigan*)

Nondiscrimination involves concepts similar to the following:

- A student cannot be denied the right to participate in an activity simply because he or she is married or is a parent.
- A pregnant student may be denied participation in activities that would jeopardize her health but must be allowed to participate in those clubs and activities that would not be classified as hazardous to her health.

- Except for classes that meet the unique differences, or needs of boys and girls and also protect their personal privacy and sensitivity, no person shall be refused admission into or be excluded from any course of instruction offered in a public school system by reason of that person's sex.
- All students of either sex have the right to participate in school-sponsored and organized programs at appropriate levels. This includes intramurals, extramurals, sports clubs, and varsity athletics. Separate dressing, showering, and similar "private" facilities should be maintained.
- All students have the right to equal participation in competitive and contact sport programs of their level containing members of the opposite sex, if desired, and if such a program can be made available within the school's curriculum.
- Students have the right to vocational counseling that is not sex oriented.
- Students have a right to textbooks that are not sex stereotyped.
- Students have a right to learn about, preserve, and respect the culture of each and every environment, especially their own.
- All students, including ethnic minority students, have the right to expect teachers and counselors to understand and relate to their cultures, backgrounds, and language.
- All students, including ethnic minority students, have a right to relevant and valid IQ tests, achievement tests, and so forth, that make provisions for cultural and language differences.
- All students, particularly students who are bilingual or whose dominant language is other than the common language, should expect to be taught in a bilingual program, where possible, especially where there is a considerable number of an ethnic minority in the school.
- Students have the right to expect released time upon approval of parents and be accountable for time in organized study or religious instruction.
- Students have the right to expect activities such as pep club, textbooks, general supply fees, lockers, athletics, caps and gowns, and so on, to be either without cost to them or within reasonable limits for everyone regardless of economic status.

POLICY— RIGHTS AND RESPONSIBILITIES

Nondiscrimination

Students have the right to equal and nondiscriminatory treatment in regard to participation in school-sponsored organizations, the awarding of grades, and the enforcement of school regulations, regardless of race, sex, religion, handicap, ethnic origin, economic status, or for any other reason except as provided by law or by requirements reasonably related to the purpose of the activity.

School sponsored student organizations have the right to equal and nondiscriminatory treatment in decisions regarding enforcement of school regulations.

Implementation Guidelines

Nondiscrimination

A student shall not be excluded by school authorities from classroom instruction or any school-sponsored organization on the basis of race, sex, religion, handicap, ethnic origin, economic status, or for any other reason except as provided by law or by requirements reasonably related to the purpose of the activity; nor shall a student be discriminated against or given preferential treatment in the enforcement of school regulations or the awarding of grades on these bases. The list of prohibited discriminatory factors in this section is not intended to be exhaustive.

(*Montgomery County, Maryland*)

COMPLAINTS CONCERNING SEX DISCRIMINATION

Complaints concerning discrimination on the basis of sex may be made by employees of the school system and other citizens of Fairfax County acting on behalf of students as well as by students or parents. The principal shall, and the complainant may, notify the Title IX officer of complaints concerning alleged sex discrimination.

(*Fairfax County, Virginia*)

G. HANDICAPPED STUDENTS AND SPECIAL EDUCATION

One of the most uncharted but yet recently focused on areas of student rights concerns students with disabilities. Few guidelines exist here. Schools and code writers must look at the legislation in these areas.

Nevada and Newark, New Jersey, have addressed this issue in their codes:

THE RIGHTS OF HANDICAPPED STUDENTS AND SPECIAL EDUCATION

There are several laws that protect the rights of handicapped students. The Re-

habilitation Act of 1973 insures that students shall, solely on the basis of their handicap, not be excluded from, denied the benefits of, or subjected to discrimination under the program or activity receiving federal financial assistance.

The Education of the Handicapped Act establishes the right of a handicapped student to a free, appropriate public education. In order for a state to be eligible to receive funds from the federal government to help pay for the education of handicapped students, the state must make available to every handicapped school age student a free, appropriate public education by September 1, 1978. Meanwhile, handicapped students and their parents presently have certain rights under this same Act. In order for you to be considered to be handicapped, tested to determine a handicap or placed in a special class, the school must:

1. First notify parents that the school plans to change your educational placement.
2. Give parents the chance to have an impartial hearing, examine all relevant records and obtain independent educational tests.
3. Protect rights by assigning someone to act as a substitute if your parents are unknown or unavailable.
4. Make sure that the decision from the hearing will be binding, subject only to appeal.

Also, administrators, before placing a student into a special or separate class,

must insure that to the greatest extent appropriate, the handicapped person is being educated with students who are not handicapped. The school must also make sure that testing and evaluation materials used to classify and place a student are chosen and given in such a way that they are not racially or culturally discriminatory.

In addition, the school's policies in the area of special education must also comply with Title VI and Title IX. For example, if the school failed to notify parents of their child's placement in their primary language, this might be a violation of Title VI. Similarly, if tests were chosen and given in such a way as to have a harmful effect on members of one sex, and on one or more racial or national origin groups, both Title VI and Title IX might be violated, as well as the Education of the Handicapped Act.

(*State of Nevada*)

STUDENTS WITH LEARNING DISABILITIES

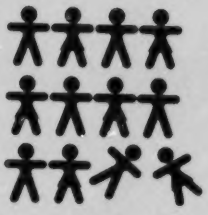
State law makes special provisions for educating students with learning disabilities. The ten classes of learning disabilities mentioned in the law are (1) mental retardation, (2) visual handicap, (3) communication handicap, (4) auditory handicap, (5) neurological or perceptual impairment, (6) orthopedic handicap, (7) chronic illness, (8) emotional disturbance, (9) social maladjustment, and (10) multiple handicaps. If you have any of these handicaps, you are entitled to special schooling.

Before you can be placed in a special school, you must be evaluated by a child study team consisting of a psychologist, social worker, physician, and learning disabilities teacher. This service is provided by the Board of Education.

The classifications are very broad and so can easily be misused. If you are placed in a special school and do not feel that you should be there, you and your parents may appeal to the Board of Education.

(*Newark, New Jersey*)

CHAPTER 3



PRESCRIBING POSITIVE STUDENT CONDUCT

It is essential that the school discipline code be explicit in defining expected behavior for students: we cannot assume students know how to behave. As code writers consider possible ways of obtaining desired behaviors, they should note that most schools appear to have employed two approaches. One approach is *to prescribe* for students how they should behave. Usually statements of student responsibilities and policies are written in this prescriptive manner, and thereby they provide guidelines for acceptable conduct. The second approach is *to prohibit* students from engaging in certain acts, telling them what they cannot do. Rules are usually prohibitive, as are statements regarding illegal conduct.

This chapter focuses on prescribing positive student conduct while the next chapter addresses how code writers develop statements prohibiting misbehaviors. It is emphasized that distinctions are being made among the terms "responsibility," "policy," "rules," and "illegal conduct" to illustrate that there are a variety of ways that codes may be written in an effort to guide student conduct. It is acknowledged that throughout different codes these terms are not always mutually exclusive and topics under each occasionally overlap.

Although each of these terms is explained fully in the following sections, a brief definition of these terms is provided here for introductory purposes:

- *Responsibilities*—Many codes speak at a general and introductory level to the topic of responsibilities. Student responsibilities are

implied in any statement of student rights. The term "responsibility" refers to the individual's obligation to assume a sense of responsibility toward the preservation of the rights of others. Responsibilities become the foundation upon which individual rights become meaningful and effective.

- *Policies*—These provide a set of general principles by which a group is guided in its management. The term denotes an issue of general purpose directed toward the welfare of the group.
- *School rules*—These are established standards or regulations directing and forbidding action. Rules govern specific conduct.
- *Illegal behaviors*—Students may be charged with illegal or delinquent acts if their behavior violates any state, federal, or local law.

A. RESPONSIBILITIES

Students, as citizens of the United States, are guaranteed certain individual rights and have corresponding individual responsibilities. Although student rights in most cases are specific, student responsibilities are implied. In this context responsibility refers mainly to individuals' obligations to others within their society, because in order for individuals to preserve their rights, each must take upon himself or herself a sense of responsibility toward the preservation of the rights of others. The concept of balancing the rights of the individual with the rights of society is as valid in the educational community as it is in the larger community. If the various responsibilities incumbent upon students were enumerated, the list would be endless. However, within a school setting and in society there are certain special responsibilities required of a citizen who is a student in school that are of vital significance.

Responsibility statements direct students to:

- become informed of and adhere to reasonable rules and regulations established by local boards of education and implemented by school administrators and teachers
- respect the human dignity and worth of every other individual
- refrain from libel, slanderous remarks, and unnecessary obscenity in verbal and written expression

- study diligently and maintain the best possible level of academic achievement
- be punctual and present in the regular school program to the best of their ability
- dress and groom in a manner that meets reasonable standards of health, cleanliness, and safety
- help maintain and improve the school environment, preserve school property, and exercise the utmost care while using school facilities
- refrain from gross disobedience or misconduct or behavior that disrupts the educational process
- respect the reasonable exercise of authority by school administrators and teachers in maintaining discipline in the school and at school-sponsored activities
- continue to or become actively involved in their education, understanding of people, and preparation for adult life

Student responsibilities and rights are compared in the Louisiana school code, which lists several of the rights of students as citizens in a school and matches each right with its companion responsibility:

STUDENTS' RIGHTS AND RESPONSIBILITIES

Right: Each student will be afforded the opportunity for a free education in the most appropriate learning environment for that student.

Responsibility: Each student will be informed of and adhere to responsible rules and regulations established by local school boards of education and implemented by school administrators. Each student must be punc-

tual and present in the regular school program to the best of his or her ability.

Right: Each student is guaranteed the freedom of speech, the freedom of expression of ideas, and freedom of the press.

Responsibility: The student must refrain from libel, slanderous remarks, and unnecessary obscenity in verbal and written expression.

Right: The school district will not discriminate on the basis of sex, race, color, religion or national origin, and must be in compliance with Title IX directives.

Responsibility: Each student should respect the dignity and worth of other individuals.

Right: The school may not interfere with the students' right to observe any religion (or none at all) by requiring, establishing, or conducting religious exercises for the student.

Responsibility: The student must respect the religious beliefs and observances of others.

(*State of Louisiana*)

One of the major advantages of student responsibility statements is that they prescribe expected or desired student behavior as opposed to listing what the student should not do. The discipline policy from South Dakota clearly tells students what *is* the appropriate way to behave in regard to pursuing their education, stating both responsibilities and rights:

FREE PUBLIC EDUCATION

A prized birthright of state citizens is that of an education at public expense for those citizens between the ages of five and twenty-one unless they graduate from high school before the age of twenty-one. The birthright carries with it correlative responsibilities, as follows:

It is the Student's Right to:	It is the Student's Responsibility to:
Attend school in the district in which his/her parent or legal guardian resides	Attend school daily, except when ill, and to be on time at all classes
Attend school until graduation from high school at public expense	Attend school until sixteen or complete the eighth grade
Obtain free textbooks and supplies needed in the course of study	Pay admission to activities if attendance therein is voluntary
Attend school at no expense even though married	Obey reasonable restrictions on married students where the board has such rules and regulations
Assist in the making of decisions affecting his/her life in school	Pursue and attempt to complete the course of study prescribed by the state and local authorities
Express his/her opinions verbally or in writing	Express his/her opinions and ideas in a respectful manner so as not to offend or slander others

Expect that the school will be a safe place for all students to gain an education	Be aware of all rules and regulations for student behavior and conduct himself/herself in accordance with them
Dress in such a way as to express his/her personality	Dress and appear so as to meet fair standards of propriety, safety, health and good taste
File a grievance with the appropriate school official when accused of misconduct	Be willing to volunteer information in disciplinary cases should he/she have knowledge of importance
Be afforded a fair hearing with the opportunity to call witnesses in his/her own behalf, and to appeal his/her case in event of disciplinary action	Be willing to volunteer information and cooperate with school staffs in disciplinary cases
Expect that where he/she bears witness in a disciplinary case, his or her anonymity will be honored by the school	Assist the school staff in running a safe school for all students enrolled therein
Be represented by an active student government selected by free school elections	Take an active part in student government by running for office, or voting for the best candidates; making his/her problems known to the staff through his/her representatives

Assist in the making of school rules.	Assume that until a rule is waived, altered or repealed that it is in full effect.

(*State of South Dakota*)

Interestingly, several school systems in Mississippi, California, and Louisiana have expanded their statements on responsibility to encompass parents, teachers, administrators, and other staff:

PARENT RESPONSIBILITY IN REGARD TO STUDENT DISCIPLINE

Parents should realize that they are an essential part in the total education of their child. They should assist in his social, emotional, mental and physical development. They should be familiar with the Mississippi State Law in regard to their duties and responsibilities. (Refer to Mississippi Law.)

Parents should realize that school attendance is very necessary in order for a student to obtain maximum benefits from his educational institution. They should cooperate with the school's policy in regard to school attendance.

It is the responsibility of every parent(s) to become familiar with his/her child's school codes. The parent(s) should carefully study the handbook on school policies, codes, and regulations. After becoming familiar with the school's policies, codes, and regulations, the parent(s) should express his/her approval or disapproval in the manner outlined by the school.

(*State of Mississippi*)

PARENT RESPONSIBILITY

1. It is the parent's responsibility to prepare the student mentally for his school experiences. The child should be encouraged to have a positive attitude about school.
2. Parents should discuss expectations in regard to grades and behavior.
3. When questions come up about school activities or discipline problems, be sure to get the teacher's or principal's reason for the action taken.
4. Visit the school and become informed about the methods being used.
5. Make appointments to see teachers well ahead of time.

(*State of Louisiana*)

TEACHER/ ADMINISTRATOR RESPONSIBILITY IN REGARD TO STUDENT DISCIPLINE

1. Teachers and administrators should involve students, parents, and school board members in planning the handbook.
2. It is the responsibility of each teacher and administrator to inform students of the rules of the school. This responsibility should be accomplished by:
   a. providing handbooks for each student
   b. discussing rules included in the handbook
   c. providing opportunities for parents to become familiar with handbook
   d. posting rules in areas accessible to students
   e. publishing rules in local newspaper
3. Student should know that unpleasant consequences will occur when rules are broken.
4. Punishment should be used infrequently.
5. No one particular discipline technique works for all students. The same discipline technique may be ineffective with the same youngster the second time it is employed. Therefore, the teacher/administrator should always provide alternative behavioral possibilities.

6. Try to avoid the use of threats, unless you can carry them out.
7. When using a punishment procedure, care must be exercised to insure that the consequences are in fact unpleasant to the student.
8. Teachers and administrators will discipline in such a manner as not to attract the attention of others.
9. After rules are presented, teacher/administrators need not continuously remind students to stop inappropriate behavior.
10. Suggested procedures for handling discipline cases should be developed by the school administrator and the school faculty.
11. Teachers/administrators should involve parents/guardians as soon as possible in the determination of their youngster's behavior.
12. School officials must be consistent in regard to student behavior.
13. Student's misbehavior is often a symptom of underlying problems. It is the job of the classroom teacher or the administrator to try to find the cause of the problem.
14. Administrators and teachers should refrain from intermixing academic evaluation and discipline.
15. An educator's behavior sets an example in regard to how students are to conduct themselves in both classroom activities and regular school activities throughout the school year.

16. An educator should have his own values clarified in order to help youngsters identify, understand, and solve his conflicts.

(*State of Mississippi*)

TEACHER RESPONSIBILITY STATEMENT

1. The teacher-pupil relationship in the classroom should be one of mutual respect at all times.
2. The teacher should be fair and *consistent* and treat each student equally.
3. Teachers should be sincere, patient, tolerant, friendly, understanding, and sympathetic.
4. Teachers should admit any errors and apologize when necessary.
5. Teachers should never be sarcastic to a student.
6. It is a teacher's responsibility to correct a student's misbehavior even when he or she is not on duty.
7. Teachers should assist students in adhering to the rules and regulations of the school.

(*State of Louisiana*)

School staff (school bus driver, secretary, cafeteria workers, paraprofessional, custodian, etc.), has the right and responsibility to verbally correct students in their

domain. They are not permitted to use corporal punishment on students. If the student persists in his/her behavior, the above personnel have the right and duty to report the misbehavior to the principal or transportation authority, if the incident occured on the bus. The bus driver may even request that said student be forbidden to ride the school bus for a certain length of time.

(State of Louisiana)

SCHOOL STAFF (SCHOOL BUS DRIVERS, SECRETARY, CAFETERIA WORKERS, PARAPROFESSIONAL, CUSTODIAN, ETC.)

All school staff personnel will perform their duties in a manner that reflects pride in their position. They will cooperate with the teachers and administrators at all times. If a school staff member encounters a discipline problem, he/she will report such incidents to the school principal for appropriate action.

(State of Mississippi)

RIGHTS AND RESPONSIBILITIES

Responsibilities of Teachers

- To consider the personal worth of each individual student as a single, unique, important human being.

- To attempt to equip each learner with the knowledge, skills, attitudes and values required for successful living.
- To hold students accountable for their actions at all times.
- To assess divergent ideas, opinions and expressions objectively and deal with them in a balanced, unbiased manner.
- To keep parents and students informed with timely or periodic reports including all pertinent data related to the student's school experience.
- To consistently critique their own performance with the objective of an ever-growing professional stature.
- To initiate and enforce individual classroom rules consistent with school and district policies.

Rights of Administrators

- To initiate such control measures as needed to establish and maintain an environment in which optimum learning and teaching conditions prevail.
- To make decisions on all issues confronting schools, primarily on the basis of what is best for the students.
- To hold students accountable for their conduct and to take prompt and appropriate action toward those guilty of violations.
- To expect that all school employees recognize and fulfill their role in terms of campus control.

Responsibilities of Administrators

- To provide leadership that will establish, encourage and promote good teaching and effective learning.
- To establish, publicize and enforce school rules that facilitate effective learning and promote attitudes and habits of good citizenship among the students.
- To request assistance from the District's support services and community agencies and resources in all cases indicating such action.
- To make a determined effort to stay attuned to expressions of student/staff/parent/community concerns and to react with sensitivity toward them.

Rights of Teachers

- To expect and receive the attention, effort and participation of the students attending their classes.
- To have parental and administrative backing when enforcing rules designed to provide an optimum learning climate.
- To teach with interruptions held to an absolute minimum regardless of the cause or source.
- To enjoy the same level of respect and courteous treatment accorded members of the class individually and collectively.

Rights of Students

- To attend school unless removed under due process as specified in the Education Code.

- To attend school in a secure academic and social climate, free of fear and violence.
- To enjoy the full benefit of their teachers' efforts, undiluted by the disruptive student.
- To have ready access to a designated teacher/advisor.
- To examine personal records upon reaching the age of sixteen.
- To be fully informed of school rules and regulations.

Responsibilities of Students

- To attend school and classes regularly and on time.
- To be prepared for class with appropriate materials and work.
- To know and obey school rules and regulations.
- To respect the rights of school personnel, fellow students and the public in general.
- To demonstrate pride in the appearance of school buildings and grounds.

Rights of Parents

- To expect that their children will spend their time at school in a safe, wholesome, stimulating atmosphere engaged in productive activity under the care and direction of a dedicated staff.
- To have assurance that school personnel will at no time preempt parental prerogative.

- To be informed of district policy, school rules and regulations.
- To review their child's record with a certificated staff member providing assistance.

Responsibilities of Parents

- To visit school periodically to participate in conferences with teachers, counselors or administrators regarding the academic and behavioral status of their children.
- To provide supportive action by making sure that children have enough sleep, adequate nutrition and appropriate clothing before coming to school.
- To maintain consistent and adequate control over their children and to approve of reasonable control measures as applied by school personnel.
- To cooperate with the school in bringing about improvements designed to enhance the educational program offered students.
- To provide the school with current information regarding legal address, phone, medical data and other facts which may help the school to serve their children.
- To become familiar with district policies and school rules and regulations.

(*Fresno, California*)

B. POLICIES

Policy statements provide guidelines surrounding desirable and expected behaviors. They are usually written at a more conceptual and general level than are statements on rights or rules. Importantly, policy statements are more expansive and address principles and procedures relevant to securing student rights. Simply put, policies tell students and staff what should be done and "how to" do it (e.g., "Visitors must secure a pass in the Principal's office").

The following sections contain illustrations of policy statements typically found in discipline codes on arrest and interrogation of students, married students, motor vehicles, ombudspersons, police on school campus, pregnant students, student health and safety, and visitors. These statements were obtained from a national survey of state boards of education conducted by Johnny Purvis of Southern Mississippi University and NSRN's own compendium of discipline policies. Some are examples from actual codes and several are integrative statements from Dr. Purvis's handbook.

1. Arrest and Interrogation of Students

ARREST AND INTERROGATION OF STUDENTS

Students are entitled to the same protection under the same law with respect to arrest as are all other citizens. Since certain disturbances on school property may become a nuisance or danger to the school community, local police may intervene in such matters.

Students have the right to be informed of the reasons for the interrogation and of their legal rights. In addition, students have the right to have either a parent or legal guardian or a school official of their own choosing present at all interrogations conducted at the school. Legal counsel may

be obtained by the student if the class warrants it.

In all cases involving interrogation of students on school properties, the school has the responsibility of informing the student's parent(s) and/or legal guardian(s) concerning the allegations.

The school has a duty to care for and protect its students. The school should not release a student to a police officer in the absence of a warrant, unless the parent(s) and/or legal guardian(s) have been notified and given consent.

In cases involving arrest and interrogation, school officials have the responsibility of becoming informed concerning the case to ensure that the rights of the student are protected. This means that the official should be aware of the implications of the law as well as of the student's rights in the school setting so that a proper balance might be maintained between the two.

If the situation is such that the school official feels justified in permitting student questioning on school premises, he or she should act as witness to the questioning and offer support to the student when needed or assign a responsible staff member in his or her place.

(*States of South Carolina and Utah*)

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2. Married Students

The court's duty, regardless of its personal views, is to uphold the board's regulations

unless they are generally viewed as being arbitrary and unreasonable. This refers specifically to a Mississippi case, *McLeod* v. *State of Mississippi.*

In this case, it was upheld that the school board regulation barring persons from the school solely on the basis of their being married was arbitrary and unreasonable, and therefore void. The courts also stated that "marriage is a domestic relation," a desirable practice of our society highly favored by law.

(*State of Mississippi*)

MARRIED STUDENT

A student shall not be discriminated against nor excluded from the education program or activities, including any class or extracurricular activity, on the basis of marital status. Married students are subject to the rules of the school and punishable for a breach of such rules.

(*State of Mississippi*)

MARRIAGE AND PREGNANCY

Any school or educational program or activity receiving federal financial assistance *shall not* apply any rule concerning a student's actual or potential family, or marital status which treats students differently on the basis of sex.

> A student shall not be discriminated against nor excluded from the education program or activities, including any class or extracurricular activity, on the basis of such student's pregnancy, termination of pregnancy or recovery therefrom, unless the student requests voluntarily to participate in a separate portion of the education program or activity of the school. A school may require such a student to obtain the certification of a doctor that the student is physically and emotionally able to continue participation in the normal education program or activity so long as such a certification is required of all students for other physical or emotional conditions requiring the attention of a doctor. Instructional programs (outside or away from the regular school setting) for pregnant students must be comparable to that offered to non-pregnant students. Pregnancy must be treated in the same manner as any other temporary disabilities. At the conclusion of the disability, the student shall be reinstated to the status held before.
>
> (*State of New York*)

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3. Motor Vehicles

School regulations regarding vehicle registration are necessary because of insufficient parking, dangerous traffic patterns, and the reckless habits of a few students. It is also the desire of many parents to have the school know where their sons and daughters are during the school day.

A student who is a licensed driver may drive a vehicle onto the school grounds under the following suggested guidelines:

1. All vehicles must be registered with the school administration.
2. No student vehicles will be permitted to leave the grounds during the hours in which school is in session without the permission of the school administration.
3. School rules on courteous and preventive driving must be followed when operating vehicles on school grounds; these rules should be posted by the school administration.
4. Vehicles that are parked on school grounds must be locked in order to assist in securing said operator's property and safety.

(*State of Mississippi*)

4. Ombudsperson

The institution of the ombudsperson has received attention during recent years as a means of humanizing bureaucracies. It is strongly recommended that a school district have an ombudsperson. The ombudsperson should be a properly trained, counseling-oriented adult who is able to relate well with students and school officials. Such a person would serve to represent the views and the interests of the students before school officials and the school board and could also assist in in-

terpreting and clarifying school policies for the students. The ombudsperson could assist in solving problems relating to students by making recommendations, by channeling complaints to appropriate school officials, and by bringing to light any injustices that may exist.

Although the ombudsperson would have no administrative power to take disciplinary actions or to countermand official orders, he or she would need to occupy a position of high status in the school community. His or her status would be best reflected by the respect and trust in which his or her office is held by all segments of the school community.

(*States of New York and Pennsylvania*)

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5. Police on School Campus

NORMAL ACCESS

Police have the responsibility to protect all citizens by enforcing the laws of a community. In this respect, police may visit the school whether at the invitation of school officials or for reasons of their own in search of information, or carrying warrants for search, arrest, or both. They may search a student or his or her locker, if they have a valid search warrant, or if they have probable cause to believe that a student is

secreting evidence of an illegal act. Under no circumstances are the rights of students to be abridged. A student questioned by police officers in school is entitled to have an adult present in connection with any investigation. If an officer has probable cause for arrest, the student must be informed of his or her legal rights, the student may remain silent, and silence will not be equated with guilt. In situations other than routine questioning, the student may request an attorney's advice, presence, or both.

In the absence of a warrant or probable cause for suspension, police authorities have no right to question students in the school building, or to use the school facilities in connection with official police work, nor do school officials have any obligation to make students available to police.

POLICE ASSISTANCE TO MAINTAIN ORDER

The criterion for summoning police authorities to the school grounds should be a demonstrated necessity that police are required to prevent personal injury or serious property damage.

(*States of Alaska, California, Delaware, Hawaii, Iowa, Kansas, Louisiana, Maine, Nevada, New Jersey, New York, North Dakota, South Dakota, Vermont, and West Virginia*)

LAW ENFORCEMENT OFFICIALS ON CAMPUS

Law enforcement officials may visit the school at the invitation of school officials or for the purpose of gathering information or for issuing warrants for search or arrest. With a valid warrant the officers may search a student or his or her locker. A student being interrogated in school must have an adult present such as a teacher, counselor, or administrator. In all cases, a student should be informed of his or her right to remain silent or to seek the advice of legal counsel.

Law enforcement officials do not have the right to question students in the school building unless they have a warrant or probable cause for suspicion.

School officials may request police assistance to maintain or restore order if they deem such help necessary.

(*State of Louisiana*)

LAW ENFORCEMENT OFFICIALS ON CAMPUS

Law officials should be allowed normal access to the campus, but should be given a school-sponsored escort appointed by the school administrator . . . with the exception of an emergency.

Law officials should be asked to provide school officials with a report of those incidents occuring on campus.

From the local perspective, police have the responsibility to protect all citizens by

enforcing the laws of the community. In this respect, police may visit the school whether at the invitation of school officials or for reasons of their own in search of information, or carrying warrants for search and/or arrest. Such state police power shall be used to promote the health, peace, morals, education, and good order of the people of public elementary and secondary schools within the state.

A student questioned by police officers in school is entitled to have an adult present in connection with any investigation. If an officer has probable cause for arrest, the student must be informed of his or her legal rights; the student may remain silent, and silence will not be equated with guilt. In situations other than routine questioning, the student may request an attorney's advice and/or to use the school facilities in connection with official police work, nor do school officials have any obligation to make students available to police.

(*State of Mississippi*)

POLICE IN THE SCHOOLS

Normal Access

Police can enter schools if a crime has been committed, if they have a warrant for arrest or search, or if they have been invited by school officials. The police may search a student, or his locker, if they have a valid warrant to do so, or if they have "probable cause" to believe that the student is in possession of contraband.

In the absence of a warrant or probable cause for suspicion, police authorities have

no right to interview students in the school building, or to use the school facilities in connection with official police work, nor does the board of education have any obligation to make students available to the police. If police wish to speak to a student in the absence of a warrant or probable cause for suspicion, they should take the matter up directly with the student's parents (Formal Opinion of Counsel No. 67, New York State Education Department, March 7, 1952; 1 Ed. Dept. Rep. 766).

When police are permitted to interview students in school, the students must be afforded the same rights they have outside the school. They must be informed of their legal rights, may remain silent if they so desire, and must be protected from coercion and illegal restraint. Within the framework of their legal rights, students have the responsibility to cooperate with the police.

Teachers and administrators have the responsibility to maintain effective communications with the student body. Good communications can often forestall or resolve a problem before it becomes necessary to involve police authorities.

Police Assistance to Maintain Order

The criterion for summoning police authorities to the school grounds should be a demonstrated necessity that police are required to prevent personal injury or serious property damage.

(*State of New York*)

In our society, police have the responsibility to protect all citizens by enforcing the laws of the community. Police officers may visit the school whether at an invitation of school officials or their own invitation in search of information, or carrying warrants for search and/or arrest. They may search a student, or his locker, if they have a valid warrant to do so, or if they have "probable cause" to believe that the student is in possession of contraband.

A student questioned by police officers in school is entitled to have an adult present in connection with such investigations. If the officer has probable cause for arrest then the student must be informed of his/her legal rights, may remain silent, and silence will not be equated with guilt. In instances where penalties may be severe, the student may request an attorney.

(*State of North Dakota*)

6. Pregnant Students

Any school or educational program or activity receiving federal financial assistance *shall not* apply any rule concerning a student's actual or potential family or marital status that treats students differently on the basis of sex.

A student shall not be discriminated against nor excluded from the education program or activities, including any class or extracurricular activity, on the basis of

such student's pregnancy, termination of pregnancy, or recovery therefrom, unless the student requests voluntarily to participate in a separate portion of the education program or activity of the school. A school may require such a student to obtain the certification of a doctor that the student is physically and emotionally able to continue participation in the normal education program or activity so long as such a certification is required of all students for other physical or emotional conditions requiring the attention of a doctor. Instructional programs (outside or away from the regular school setting) for pregnant students must be comparable to that offered to nonpregnant students. Pregnancy must be treated in the same manner as any other temporary disability. At the conclusion of the disability, the student shall be reinstated to the status held before.

The aforementioned should apply equally for married or unmarried students.

(*States of Alaska, California, Delaware, Idaho, Illinois, Louisiana, Michigan, and Nevada*)

PREGNANT STUDENTS

Title IX forbids schools from treating students of one sex differently than others. Under the rules, your school cannot—

- Refuse to excuse any absence because of pregnancy or refuse to allow the

student to return to the same level which she held when she left school.

- If a student should become pregnant, she is requested to present a doctor's approval that she is physically able to attend school. Upon being reinstated the student is required to present a doctor's approval that she is physically able to return to school.

Pregnancy should be treated as any other disability.

(*State of Mississippi*)

PREGNANT STUDENT

The school shall not discriminate against any student based on her actual or potential family. The school shall not refuse to allow a female student to take part in a class or activity because she is pregnant. The student may voluntarily join a special program of comparable quality to her regular classes. Pregnancy must be treated in the same manner as any other temporary disabilities. The school shall not refuse to excuse any absence because of pregnancy or refuse to allow the student to return to the same grade level which she held when she left school.

(*State of Louisiana*)

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7. Student Health and Safety

COMMUNICABLE DISEASE

Any student who has a dangerous communicable disease that poses a substantial threat to the health and safety of the school community may be removed from school by the principal on the approval of the superintendent until such student no longer poses such a threat.

STUDENT SAFETY

A student who has been charged with the unlawful selling of narcotics or other such serious violation of the criminal law may be removed from the school by the principal upon the approval of the superintendent when it is necessary to protect other students or avoid substantial disruption to school operations. The school must be able to show that the continued presence of the student endangers other students or would substantially disrupt school operations. As soon as the student no longer poses such a threat, he or she shall be reinstated.

(*State of Georgia*)

STUDENTS' HEALTH AND SAFETY

Any student who poses a threat to the health or safety of a school community because he or she has a dangerous communicable disease may be removed from school by the principal on the approval of the superintendent until such student no longer poses a threat.

(*State of Louisiana*)

STUDENT SAFETY

A student may be removed from the school by the principal upon the approval of the superintendent if the student has been charged with illegal selling of narcotics or other such serious violations of the criminal law, when it is necessary to protect other students to avoid substantial disruption to school operations. The school must be able to show that the continued presence of the student endangers others or would disrupt school operations. As soon as the student no longer poses such a threat he or she shall be reinstated.

(*State of Louisiana*)

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8. Visitors

VISITORS ON CAMPUS

All visitors to the school must report to the principal's office for clearance upon arrival at the school. The visitor will be given a tag that is to be attached to his clothing. This will readily identify him as being a visitor to the school. Visitors may be escorted to their point of destination by the principal, a teacher, a staff member, or a student. The principal, teachers, and staff members should see that all visitors are made welcome. A student may be chosen to escort the visitor back to the office.

(*State of Mississippi*)

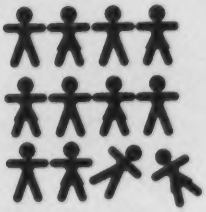
VISITORS ON CAMPUS

Visitors are always welcome, but must first check in at the office. Classes must not be disturbed. Parent/teacher conferences should be arranged by appointment for the time set aside each day immediately following the close of school or during a teacher's consultation period, or the teacher should be available for parent conference before class period begins.

Before visitors are permitted to visit the classroom, they must secure written permission from the principal, or representative of the office.

(*State of Mississippi*)

CHAPTER 4



PROHIBITING NEGATIVE BEHAVIOR

As noted in the previous chapter, there are several approaches code writers may employ in guiding student behavior. This chapter will focus on the deterrent and prohibitive approaches. In general, statements that tell the student what *not* to do and caution the student against certain actions are often called rules. Some rule violations have such serious consequences that the violations are labeled "illegal behavior." The subject matter for this chapter is, therefore, rules and illegal conduct.

A. RULES

There are probably as many rules written as there are possible student responses. We have selected fourteen of the most frequently found rules addressing specific prohibited behaviors. Before focusing on these specific prohibitions, some general comments on rules should be made.

The school board and staff may make reasonable and necessary rules governing the specific conduct of students in a school. The rulemaking power, however, is not unlimited: it must operate within statutory and constitutional restraints. A board of education has only those powers that are enumerated in the laws of the state, or

which may reasonably be implied or necessary for the orderly operation of the school.

Boards of education may not make rules that are arbitrary, capricious, or outside their legislated authority. Their rules must stand the test of fairness and reasonableness. A rule is generally considered reasonable if it utilizes a rational means of accomplishing some legitimate school purpose or educational objective, although this may become a matter for a jury to determine in a court of law.

A constitutionally protected activity may not be infringed upon unless the school official can show that the failure to regulate said activity would create a material and substantial disruption of school work and discipline, or would invade the right of others, or would result in a clear and present danger to the health, morals, safety, or general welfare of others. Boards and their representatives are required to prove through factual evidence—*not* through opinions—whether such regulations are necessary.

The following sections contain illustrations of some of the ways different schools write their codes so as to discourage specific behaviors such as absences, use of drugs, behavior in assemblies and off school grounds, cheating, assault, theft, and vandalism.

1. Absences and Attendance

In almost every school the instructional program is a vital part of a formal education. Most school districts believe it is necessary to require students to be in attendance during the school year. A student is expected to attend school at all times when school is in session. Absences from school are acceptable only when a student is ill, when a family emergency exists, or when there is a death, serious illness, or other extenuating circumstance in the immediate family of the student. A student should be allowed to make up class work missed during his or her absence if the absence is excused. The teacher will determine the work to be made up and establish a reasonable time limit for the student to complete the work.

The attendance rule in Montgomery County, Maryland, focuses on the obligation and responsibility of all students to attend class; but it also clearly encourages staff members and parents to support student attendance.

ATTENDANCE

Except when ill or excused, all students have a responsibility to attend their scheduled classes and other required activities throughout the school day. At grade levels 9 through 12, excessive unexcused absences will result in consultation with school administrators and/or specialists, parents, and the pupil and may result subsequently in loss of credit. At all grade levels, it is the student's responsibility to make up the work missed regardless of the reason for the absence. The state compulsory attendance law governs all students between 6 and 16 years of age and also holds their parents accountable under penalty for such attendance.

It is the obligation and responsibility of each MCPS student to attend all sessions of each class in which the student is enrolled unless (1) his/her absence is excused, (2) he/she is engaged in an alternate class activity as part of the class operation under the responsibility and supervision of the classroom teacher, or (3) he/she is engaged in an approved activity through prior arrangement with the classroom teacher and school administration. At any grade level, any student who is excessively absent or tardy, whatever the reason, risks not attaining the instructional objectives of his/her course. In all cases, the parent should be notified and the student should receive appropriate counseling.

All staff members have a responsibility to work cooperatively with students and parents to improve student attendance. Staff are encouraged to find solutions to problems causing chronic student ab-

sences through evaluation of school programs and exploration of ways of working individually with students who evidence a need for special attention.

Students have a responsibility to make up work regardless of the reason for the absence. When the absence is an excused one, the teacher has an obligation to assist the pupil in making up the classwork missed. When the absence is unexcused, the teacher has no obligation to assist the pupil in making up work for credit; however, the pupil is still responsible for making up the work so that continuing effective course participation is possible.

(*Montgomery County, Maryland*)

ATTENDANCE

Florida Statutes state that school attendance is mandatory between the ages of seven (7) and sixteen (16). Rules and regulations pertaining to these laws shall be available to all students and parents. Regular attendance and a cooperative attitude are necessary ingredients in an environment which promotes learning. Parent cooperation is essential.

Responsibilities

- Students have the responsibility to attend all classes daily and on time, unless circumstances prevent them from doing so.
- Students have the responsibility to provide the school with an admissible explanation and documentation concerning each absence.

- Students have the responsibility to obtain and make up within the specified time, work which has been missed.
- Students who are pregnant have the responsibility to provide professional medical confirmation that continued school attendance is in no way dangerous to their personal health.
- Students have the responsibility to abide by school bus rules while being transported at any time for any reason.

Unacceptable Behavior

A. Failure to make up work within allotted time after an excused absence (2 days for each day of absence)

   Example: 3 days absent, 6 days to make up work

B. Unexcused absences

   1. Suspension
   2. Absences not related to:
      a. illness of student and/or member of the immediate family
      b. death in the family
      c. permitted absence (prior arrangement made with school)

      Examples: family trips, appointments
   3. Elementary and Middle: Failure to phone or bring note from home within two (2) school days of student's return to school; failure to bring a doctor's note upon request. High Schools: Failure of parent to report by phone the cause of ab-

sence on the day the absence occurs (under extenuating circumstances exceptions may be considered); failure to bring a doctor's note upon request

4. Absent from any class without permission

Unacceptable Behavior

C. Unexcused tardies

Failure to enter class within established schedule (each student will be informed as to class schedule)

D. Misconduct on the bus

1. Eating/drinking/smoking
2. Unacceptable language
3. Horse play
4. Rudeness/discourteousness/loudness
5. Safety procedure violation
6. Destruction of property
7. Fighting/pushing/tripping
8. Throwing objects

(For any other specific misconduct not listed above, refer to appropriate place in Code.)

E. Leaving class without permission but remaining on campus

F. Leaving school without permission

(Broward County, Florida)

Many schools, as seen in the Everett, Washington, and Wake County, North Carolina, codes, are quite explicit in delineating under what conditions students may miss school:

OTHER STUDENT MISCONDUCT DEFINED

Attendance

Regulation

Attendance in the schools of the State of Washington is compulsory from the age of eight through the age of fifteen and the completion of the ninth grade. After the ninth grade, students in full time, compensated occupations need not attend. However, students who enroll in the tenth grade or higher, obligate themselves to the same attendance regulations which exist for the eight–fifteen-year-olds.

All students enrolled in the Mukilteo School District will attend punctually and regularly, all scheduled classes to which they are assigned, unless officially excused by the administration, the teacher of the class, or their advisors.

Students will be officially excused from a class period or for the school day for the following reasons:

1. Illness
2. Family Emergencies
3. Pre-arranged doctor or dentist appointments

4. Authorized classroom or school activities
5. Absences which according to the principal or his designee may be deemed appropriate but not covered in the above stated instances.

Students who have been absent from school will present a written notice signed by his parent or guardian giving the date of the absence and the reason for missing school, to the Student Office. Attendance in any class prior to this step is prohibited without the specific consent of the principal or his designee. Teachers shall insure that students have an admit slip prior to accepting them into class following an absence.

Early dismissal will be granted to students for the above listed reasons upon the presentation of a written note signed by the parent guardian. In addition, the student must sign out in the Student Office prior to leaving the building. If he is to return prior to the dismissal of school, he must sign back in and receive an admit slip to class. If he does not return until the following day, he may present his early dismissal slip, or a note from his parents to receive an admit back to school.

(*Everett, Washington*)

BOARD POLICY 6000

Attendance

The Board recognizes that a positive correlation exists between regular attendance

and achievement. Therefore, regular attendance shall be required.

BOARD POLICY 6010

Compulsory Attendance

Every parent or guardian residing within the school system and having charge or control of a child between the ages of seven and sixteen years shall cause such child to attend school continuously for a period equal to the time that the public schools are in session.

BOARD POLICY 6103

Absences

In the event of absence or tardiness, it shall be the responsibility of the student to bring to the teacher a note signed by the parent or guardian giving the reason for such absence or tardiness.

BOARD POLICY 6110

Excused Absences

Valid conditions for excused absences include:

A. Illness of the student

B. Medical or dental appointment

C. Death in immediate family

D. Quarantine by order of the Wake County Health Department

E. Religious Holidays

F. Court summons

G. Immediate demands of the home which in the opinion of the principal merit absence

H. Absences which in the opinion of the principal have an educational value as great as that received during an equal amount of time in school

In the event of an excused absence, a student shall be entitled to twice the number of school days absent to make up for full credit all work, including tests, missed during such absence, as arranged by the student at the convenience of the teacher.

(*Wake County, North Carolina*)

Chesterfield, Missouri, addresses the topic of truancy:

TRUANCY

Any absence without prior knowledge or permission of the school or parents will be considered a truancy. Under these circumstances, a student will be considered truant whether the absence is for a full day or more, part of a day, or all or part of a class.

In case of truancy all day, a student may be re-admitted only after a conference has been held with parents.

Class truancies will result in detention periods. Continued truancies will result in suspension from school and/or other disciplinary action.

(*Chesterfield, Missouri*)

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2. Alcohol, Drugs, and Narcotics

In general, the rules on alcohol, drugs, and narcotics state that a student shall not possess, sell, use, transmit, or be under the influence of any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana, alcoholic beverage, or intoxicant of any kind:

- on the school grounds during and immediately before or after school hours
- on the school grounds at any other time when the school is being used by any school group
- off the school grounds at a school activity, function, or event
- en route to and from school
- off the school grounds while the student is in attendance at school or any school function or is otherwise subject to jurisdiction of school authorities

Furthermore, most rules clearly indicate that it is unlawful for any person to possess knowingly or intentionally a controlled substance (depressant, stimulant, counterfeit or illegal drug) unless obtained from or pursuant to a valid prescription or ordered by a registered physician. It should also be generally included that any person addicted to or dependent upon a controlled substance should be urged to seek advice concerning treatment and rehabilitation from individuals or agencies such as the following:

- a medical practitioner or hospital
- college or university counseling bureaus
- counselors in elementary, junior, and high schools

The following are specific examples from Richland County, South Carolina, and the states of North Dakota, Iowa, and Arkansas:

NARCOTICS, ALCOHOLIC BEVERAGES, AND STIMULANT DRUGS

A student shall not knowingly possess, use, transmit, or be under the influence of any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana, alcoholic beverage, other harmful drugs or intoxicant of any kind:

A. on the school grounds during and immediately before or after school hours,

B. on the school grounds at any other time when the school is being used by any school group,

C. off the school grounds at a school activity, function, event, or

D. on school buses.

Use of a drug authorized by a medical prescription from a registered physician or other licensed medical authorities shall not be considered a violation of this rule.

(*Richland County, South Carolina*)

In the interest of health and safety for all its citizens, the North Dakota Legislature has decreed that it is illegal for a minor to smoke cigarettes and for any person under the age of twenty-one to possess and/or consume alcoholic beverages. It has also said that no person may legally have a "controlled substance" or narcotic drug in his/her possession unless obtained by prescription. State penalties are provided for violations of these acts, and school officials are duty bound to observe and enforce such legislation.

Since the hazards to health caused by smoking, and the abuse of alcohol and drugs, are thoroughly documented, students can expect valid, current information about the dangers and risks involved in the use of these substances. They can also expect that if they are physically or psychologically addicted to drugs or alcohol, they can turn to school personnel for help without recrimination.

Students who have reached their 18th birthday must respect the school rules which prohibit smoking at curricular or extracurricular school functions.

State law requires public schools to give instruction on the effects of tobacco, alcohol and drugs on the human body. If the decision is made to use these substances, students are obligated to respect the rules pertaining to use in school and at school functions. Upper class students should also be aware of their influence on younger students as a model.

(*State of North Dakota*)

No person shall possess a controlled substance unless such substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his/her professional practice.

(*Des Moines, Iowa*)

NARCOTICS, ALCOHOLIC BEVERAGES, AND STIMULANT DRUGS

A student shall not possess, sell, use, transmit, or be under the influence of any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana, alcoholic beverage, or intoxicant of any kind:

1. on the school grounds during and immediately before or immediately after school hours,
2. on the school grounds at any other time when the school is being used by any school group,
3. off the school grounds at a school activity, function, or event,
4. en route to and from school, or
5. off the school grounds while the student is in attendance at school or any school function, or is otherwise subject to jurisdiction of school authorities.

Use of a drug authorized by a medical prescription from a registered physician

shall not be considered a violation of this rule.

(*State of Arkansas*)

Some state and district drug and alcohol rules attend to the effect drugs have on the health of the student and educational environment, thereby acknowledging that personal concerns such as drug problems and alcoholism can seriously threaten the educational as well as the personal development of youngsters. It seems clear that schools today have the responsibility to:

- educate students regarding the law including the areas of alcohol and drugs
- provide data that are as objective as possible regarding alcohol and drugs through health education classes and other appropriate classes (These data should also include some insight into the psychological aspects of alcohol and drug usage.)
- take action when students fail to adhere to school, local, state, and federal codes regarding the use of drugs, alcohol, or both (Therefore, schools have the responsibility to require compliance with the law on the school premises and at school functions.)

A Mississippi code focuses on the issue of drugs and health:

DRUG POLICY

Since the use of drugs is not in accordance with a healthy scholastic environment and is considered a deterrent to learning which

requires a healthy mind and body, the following policy on drugs will be adhered to. . . .

(*State of Mississippi*)

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3. Assembly Behavior

Since students have the right to freedom of assembly, schools often publish rules limiting their behavior when exercising this right:

UNLAWFUL ASSEMBLY

An unlawful assembly is three or more persons assembled together, with them or any of them acting in a violent manner, and with intent that they or any of them will commit a public offense. A person who willingly joins in or remains a part of an unlawful assembly, knowing or having reasonable grounds to believe that it is such, violates this policy.

(*Des Moines, Iowa*)

ASSEMBLY BEHAVIOR

1. Teachers should accompany their classes to the assembly.

2. Teachers should sit with their classes during assembly.
3. Students should sit quietly during assembly.
4. Students should leave the assembly hall in an orderly manner.

(*State of Mississippi*)

ASSEMBLY BEHAVIOR

In the case of formal assemblies, students will enter the auditorium quietly and sit in their assigned areas. Each student shall demonstrate his appreciation of a speaker or program by listening attentively and by refraining from comments until the program is over. Cultured and refined applause, when appropriate, will be welcome. Students shall never boo, whistle, or stomp feet during a program. When leaving his seat in the auditorium, each student will raise his seat for the convenience of others exiting. Any person displaying inappropriate conduct or discourtesy during such assemblies will be removed immediately.

In the case of pep rallies or other informal assemblies, students are encouraged to show some enthusiasm toward the program. They are invited to join cheerleaders or other directors in the chants, cheers, songs, etc.

(*State of Louisiana*)

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4. Cheating

Possibly one of the most serious misconducts is the use of another's material as one's own. Cheating is called by many terms, such as plagiarism or copying. Three schools have written their rules on cheating as follows:

CHEATING

Students observed to be giving or receiving information while taking examinations are to be given a zero for the particular test. The student's parents will be informed. A second offense will result in a parent/teacher conference.

(*State of South Carolina*)

CHEATING

Cheating may be defined as copying another student's work, plagiarism, concealing information in form of "cheat sheets," notes, tattoos, desk, etc. which will assist the student's performance, giving or receiving assistance to other students, or having prior knowledge of the examination. Dishonesty in the form of cheating is a behavior which may result in disciplinary action.

(*Picayune, Mississippi*)

CHEATING

Dishonesty in the form of cheating is a behavior which may result in disciplinary action. Cheating is defined as copying another student's work, plagiarism, concealing information in form of "cheat sheets," notes, tattoos, etc. which will assist the student's performance, having prior knowledge of the examination and assisting another student.

If a student is observed cheating, one of the following actions may result:

1. notification of his act immediately following the class period will be made to the student
2. notification of parents
3. notification of principal
4. a grade of 0 on the material
5. suspension may result in repeated offenses

(*State of Mississippi*)

5. Conduct off School Grounds

The authority of school officials to control student conduct off the school grounds and outside of school hours is well settled in the law. Where students are engaged in a school-sponsored activity, the authority of school officials is the same as if the activity took place on school property.

Further, in non–school-sponsored activities, a student may be disciplined:

- if the student's actions would in any way serve to undermine the management of the school
- if it can be established that a student's actions were directly related to the orderly operation of the school

However, a school may not withhold a student's diploma or limit a student's academic progress in any way because of nonacademic or attitudinal factors such as political activity.

The following examples cover both school-sponsored and non–school-sponsored off-campus activities.

STUDENT CONDUCT OFF CAMPUS

Students participating in school-related activities, such as athletic events, carnivals, and proms, should at all times follow school policy on conduct. Schools are not responsible for the actions of students off campus, unless there is a direct relationship between the action and the school. In non-school activities, a student may be disciplined if his actions were taken to undermine the management or if his actions can be directly related to the operation of the school. In the event that this happens, a student-parent-principal conference may be held, or other disciplinary action may be taken.

(*State of South Carolina*)

OFF SCHOOL GROUNDS

The authority of the school officials to control student conduct off school grounds and outside school hours is well settled in the law. Where the students are engaged in a school sponsored activity, the authority of the school officials is the same as if the activity took place on school property.

In non-school-sponsored activities, students may be disciplined where their actions tend to undermine the management of the schools, however, the school may not punish a student for offenses occurring off school grounds, unless it can be established that such offenses are directly related to the orderly operation of the school.

(*State of North Dakota*)

6. Destruction of Property

In addition to civil liability, students are criminally responsible for damages to persons, real or personal property, or both caused by their malicious actions. In a legal sense, any act done willfully and purposely to the prejudice and injury of another, which is unlawful, is, as against that person, "malicious." Malice is defined as "the intentional doing of a wrongful act without just cause or excuse, with an intent to inflict an injury or under circumstances that the law will imply an evil intent."

Parents are also financially liable, to a limited degree, for the actions of their children, provided such children are 17 years old or younger, unmarried, and living with their parents.

Property destruction and damage are addressed in the following illustrations:

DAMAGE OR DESTRUCTION OF SCHOOL PROPERTY

A student shall not cause or attempt to cause damage to school property or steal or attempt to steal school property.

DAMAGE OR DESTRUCTION OF PRIVATE PROPERTY

A student shall not cause or attempt to cause damage to private property or steal or attempt to steal private property on the school grounds, during school activity, function, or event off school grounds, or on a school bus.

(Richland County, South Carolina)

DESTRUCTION OF SCHOOL PROPERTY

The walls in the building, furniture in the classrooms, the auditorium, the library, the lunch room, the textbooks, and all other fixtures and equipment are provided by the school board, in cooperation with the State. Every student should refrain from defacing or destroying school property. Hopefully, students will develop a pride in keeping the building clean and the furniture in good repair.

If a student is observed defacing or destroying school property, a student-parent-principal meeting will be called to

assess the damage and to discuss possible disciplinary action. Parents are liable for damages caused by their children.

(*State of Louisiana*)

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7. Disturbing School

It is unlawful for any person to willfully or unnecessarily do the following:

- interfere with or disturb in any way or in any place the students or teachers of any school
- loiter about or enter a school, except on business, without permission of the principal or person in charge
- act in an obnoxious manner on school property

BOARD POLICY 6422

Disruption of School

No student shall, by use of passive resistance, noise, threat, fear, intimidation, coercion, force, violence, or any other form of conduct intentionally cause the disruption of any lawful function, mission, or process of the school to which he is assigned or any other school in the school system, nor shall any student urge any other student to engage in such conduct.

(*Wake County, North Carolina*)

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8. Fighting or Assault and Battery

Fighting and other forms of threatening behaviors are sometimes labeled as assault and battery. Although these labels tend to describe crimes, the following illustrations focus on behaviors that are described as fighting and are typically of a less serious consequence—and do not become criminal acts.

Any student who starts a disturbance or who participates in one may be suspended from school immediately and will be able to re-enter only after satisfactory assurance has been given in writing to the principal by the pupil and by his parents or guardians that there shall not be a reoccurence of this sort of behavior.

(*Picayune, Mississippi*)

PHYSICAL INJURY

No student shall intentionally cause or attempt to cause physical injury or behave in such a way as could reasonably cause physical injury to any person.

(*Everett, Washington*)

FIGHTING

Fighting in any form will not be tolerated in the classroom or on the campus. Appropriate action will be taken against any offenders. Each case will be considered

according to severity, and the disciplinary action will be based on this. Disciplinary actions that may be taken are: Student-parent-teacher conferences may be held to discuss the options; in-school or out-of-school suspension of from one to three days may be chosen; or expulsion or other corrective actions may be taken.

(*State of Mississippi*)

PHYSICAL ATTACK ON STAFF AND STUDENTS

An act of physically assaulting a staff member or student on school grounds or in conjunction with school activities would require a minimum action of three days of suspension with police referral. Maximum action, expulsion. (This should be distinguished from a minor fight or scuffle between students which will be addressed in the local school plan.)

VERBAL ABUSE

Willfully intimidating, insulting, or in other manner abusing verbally a member of the school staff would require a minimum action of one day of suspension with a parent conference. Maximum action, five-day suspension. Use of improper language in itself is not here considered as verbal abuse, but such behavior is not condoned and should be dealt with at the school level.

(*Montgomery County, Maryland*)

BOARD POLICY 6425

Assault or Cause of Personal Injury

No student shall assault or cause or attempt to cause physical injury to or intentionally behave in such a manner as could reasonably cause physical injury to any student, school employee or person other than a student or school employee in any school building, on any school premises, on any school bus, or off the school grounds at any school activity, function, or event before, during or after school hours.

(*Wake County, North Carolina*)

ASSAULT

A student shall not cause, attempt to cause, threaten to cause physical injury or behave in such a way as could reasonably cause physical injury, to any person; nor shall a student intentionally touch any person in an offensive or sexually provocative manner:

A. on the school grounds during or immediately before or immediately after school hours,

B. on the school grounds at any time when the school is being used by a school group,

C. off the school grounds at a school activity, function, event,

D. on school buses, or,

E. any other time a student is under the jurisdiction of the school authorities.

(*Richland County, South Carolina*)

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9. Fireworks

Most states have laws against the use of fireworks. Because using fireworks is frequently illegal and because of the serious damage fireworks can cause both to the person who uses them and people nearby, most disciplinarians view rules on fireworks as quite important.

FIREWORKS

No fireworks will be allowed at school. Fireworks are considered dangerous objects. They will thus be treated in the same manner as weapons. A student with fireworks will have to meet with his parents and the principal for a conference. Some form of correction will be the result of a second offense.

(*State of Mississippi*)

FIREWORKS

No student shall be permitted to carry upon his or her person or in any other

manner or to have in his or her possession in any way dynamite, firecrackers, caps, or other fireworks of any nature, kind, or description, or other instrument or paraphernalia which, when used in a vicious manner could cause bodily harm, injury, or death to any person, except such instruments as may be required to be used by the pupil in his or her class for the furtherance of the student's education, as determined by the student's principal or teacher.

(*Picayune, Mississippi*)

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10. Theft, Stealing, and Burglary

When school facilities are burglarized, civil authorities should be brought in to assist in collecting evidence and locating the culprit(s). Depending on the severity of the "act" and the cooperation of the student and his or her parents, school officials can make a determination as to whether actions based on civil codes, school codes, or both should be pressed.

Three examples from school codes addressing theft follow:

THEFT

A person commits theft when the person does any of the following:

1. Takes possession or control of the property of another, or property in the

possession of another, with the intent to deprive the other thereof.

2. Any act that is declared to be theft by any provision of the Code of Iowa.

(*Des Moines, Iowa*)

BOARD POLICY 6428

Theft or Damage to Property

No student shall steal or attempt to steal or intentionally damage or attempt to damage any school property or private property while under school jurisdiction.

(*Wake County, North Carolina*)

THEFT

A student shall not cause or attempt to cause damage to private property or steal private property either on the school grounds or during a school activity, function, or event when held off the school grounds.

(*Everett, Washington*)

It is important to note that school security personnel believe most school theft could be prevented by observing the following kinds of strategies:

- have the school fenced and well lighted
- keep materials, equipment, and so on, in their respective places and locked
- install burglar alarm devices
- assist students in developing "pride" in their school and themselves (for example, value clarification)
- refuse to keep money in the school overnight and only the minimum sum needed during the day
- have teachers, custodians, school administrators, and so forth, live in houses or mobile homes on the school's campus

11. Use of Tobacco

Regulations concerning student use of tobacco (smoking, chewing, etc.) on school grounds have been a problem in intraschool relations. There is probably no state law that specifically forbids minors under 18 years of age from using tobacco. The 18-year minimum age that is displayed on cigarette machines forbids the sale of cigarettes (tobacco) to minors, but not the use of tobacco by minors. Policies that forbid the use of tobacco on school grounds are usually local laws, bylaws of the board of education, or decisions of school administrators or representative school committees.

The following are illustrations of existing regulations:

USE/POSSESSION OF TOBACCO

The possession and use of tobacco in any form on the school grounds will be discouraged; however, students may smoke, chew or dip in an area specified by school authorities at specified times provided that written parental permission is submitted to the school office. Violation of this policy may result in the following:

1. Loss of the privilege of using tobacco on school property.
2. Repeated offenses may result in suspension or in extreme cases of repeated violations expulsion.

(*State of Mississippi*)

The use by any student of tobacco or any controlled substance shall be prohibited while such student is on school premises or in attendance or participating in school-related activity.

(*Des Moines, Iowa*)

TOBACCO

No student in grades kindergarten through nine shall smoke any tobacco product in any school building or school bus at any time or on the school premises during the school day. Students in grades ten through twelve may smoke tobacco products on school premises according to the time, place, and conditions approved by the local school administration.

(*Wake County, North Carolina*)

USE/POSSESSION OF TOBACCO

Students are not permitted to smoke at any time on school grounds. Students are not allowed to have in their possession cig-

arettes, matches, or lighters. Failure to comply with this rule may result in suspension.

(*Picayune, Mississippi*)

Whatever decisions are reached at the local level regarding students using tobacco on school grounds, it is hoped that all concerned will give full consideration to the extreme health hazards associated with the use of tobacco and that individuals will refrain from its use by their own volition and for their own benefit. It is also hoped that whatever decisions are reached regarding the use of tobacco on school grounds will apply equally to all members of the school community. It is inconsistent to prohibit students from using tobacco on school grounds and yet to permit others to use it in faculty rooms on the same school grounds.

The following example includes this consideration:

USE/POSSESSION OF TOBACCO

During the course of their years in school, students will be exposed to the facts concerning tobacco. The choice to use tobacco will be left up to the student and his/her parents. Parents are encouraged to wait until their child is in high school before this choice is made.

The use of tobacco will not be permitted in elementary school. Junior high and high school students will bring a note from their parents giving them permission to use tobacco. Areas for the use of tobacco on the

campus will be designated. Students refusing to abide by these rules will be faced with disciplinary procedures for correction.

(*State of South Carolina*)

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12. Vandalism

In discussing vandalism it is essential that a distinction be made between the following types of vandalism:

- *Malicious vandalism*—In instances of this type, students deliberately and purposely break equipment, deface walls, destroy landscaping, and so forth.
- *Nonmalicious vandalism*—Generally this type of vandalism is accidental or careless; for example, students playing on the school grounds after school may accidentally hit a baseball through a window.
- *Unintentional vandalism*—Generally this type of act is very unintentional; for example, a student may mark on his or her desk top while listening to a lecture.

When vandalism does occur, and if school officials believe that the act was malicious on the part of the student, said official should notify the student's parent(s) or legal guardian(s) immediately. In addition, it is very important for the school district to have a policy that takes into consideration acts of vandalism. For example, a policy similar to the following may be devised—if a student willfully destroys, cuts, defaces, damages, or injures any school building, equipment, or other school property, he or she shall be liable to suspension or expulsion and his or her parent(s), legal guardian(s), or persons *in loco parentis* shall be liable for all damages. The following illustration is from the Mukilteo School District in Everett, Washington:

VANDALISM

A student shall not cause or attempt to cause damage to school property or steal or attempt to steal school property.

(*Everett, Washington*)

13. Weapons

The following weapons or potential weapons are typically prohibited from being brought onto school campuses:

- knife
- blackjack
- metal pipe
- firearms
- brass or metal knuckles
- any other device or object that could be used to inflict bodily harm

In addition to the above, it is unlawful to carry or display a firearm in the area immediately adjacent to the grounds of a public school.

Illustrations of school regulations that incorporate these concepts follow:

WEAPONS (FIREARMS, KNIVES, POTENTIAL WEAPONS)

A student shall not possess, handle, or transmit any object that can reasonably be

considered a weapon. This does not apply to normal school supplies such as pencils, compasses, ruler, etc., but will include any knife, razor blade, ice pick, brass or metallic knuckles, pistol, shot gun, gun, dynamite, machete, pellet gun, or explosives. This shall apply

1. on school grounds during, before, or immediately after school hours,
2. on school grounds when that facility is being used for public functions,
3. or at any school sponsored function held off the school grounds.

(*State of Mississippi*)

WEAPONS

A student shall not possess any object that can reasonably be considered a weapon on the school grounds, at any school function or while enroute to and from home to school. This rules includes any explosives including firecrackers.

(*Everett, Washington*)

WEAPONS (FIREARMS, KNIVES, POTENTIAL WEAPONS)

No pupil attending school in the Picayune School System shall be permitted to carry upon his or her person or in any other manner or to have in his or her possession in any way any knife, razor, razor blade, ice pick, brass or metallic knuckles, pistol, or

other weapon, whether the same be manufactured or homemade.

(*Picayune, Mississippi*)

WEAPONS AND DANGEROUS INSTRUMENTS

A student shall not knowingly possess, handle or transmit a knife, razor, ice pick, explosive, loaded cane, sword cane, machete, pistol, rifle, shotgun, pellet gun or other object that reasonably can be considered a weapon:

A. on the school grounds during and immediately before or immediately after school hours,

B. on the school grounds at any other time when the school is being used by a school group,

C. off the school grounds at a school activity, function, event, or

D. on school buses.

(*Richland County, South Carolina*)

WEAPONS

No student will be allowed to possess a knife, firearms, razor blades, picks, fingernail files, chains, broken glass, or any other dangerous object while attending school. If a student is using or displaying such an object, he shall expect to have it secured by any school official. A student violating this

rule will meet with his parents and the school administration for a conference and for the release of the instrument. A second offense will result in the disciplinary action chosen by the student and his parents in cooperation with school officials.

(*State of South Carolina*)

WEAPONS AND DANGEROUS INSTRUMENTS

No student shall knowingly possess, handle, or transmit any knife, razor, ice pick, explosive, loaded cane, sword cane, machete, pistol, rifle, shotgun, pellet gun, metal knuckles, or other object that can reasonably be considered a weapon or dangerous instrument in any school building, on any school premises, on any school bus, or off the school grounds at any school activity, event, or function before, during, or after school hours.

(*Wake County, North Carolina*)

WEAPONS AND DANGEROUS INSTRUMENTS

A student shall not possess, handle, or transmit a razor, ice pick, explosive, loaded cane, sword cane, machete, pistol, rifle, shotgun, pellet gun, or other object that reasonably can be considered a weapon:

1. on the school grounds at any time;

2. off the school grounds at a school activity, function, or event, or
3. en route to and from school.

(*State of Arkansas*)

B. ILLEGAL BEHAVIORS

Student discipline problems may often be addressed by both the school and the legal system. Although some believe this situation constitutes "double jeopardy," others maintain the situation is analogous to renting an apartment. For example, the lessee has obligations both to the lessor and, additionally, to the law. If the lessee commits an act of such gravity, for example, $1,000 worth of property damage, he or she may be held accountable both to the renter (via the contract) and to the court system. Similarly, students are accountable to their school in their role as students as well as to the law in their capacity as citizens.

Some of the illegal behaviors listed below appeared in the section on rules. Whether an illegal behavior is considered breaking of a rule or breaking of a law is often a matter of degree and up to the discretion of the school administrator.

School officials may bring charges of delinquency in juvenile court against persons under, for example, 16 years of age. The court can find such persons delinquent if they:

- violate any state or federal law or local ordinance
- run away from home "without just cause"
- engage in indecent or immoral conduct
- are habitually absent from school or defy the school rules when in school
- violate any order of the juvenile court

The following are examples of illegal behaviors for which school officials may bring charges against a student:

1. *Assault*—The intentional inflicting of serious injury upon another person.
2. *Threatening*—By physical threat, the intentional placement or attempt to place another person in fear of imminent serious physical injury, regardless of actual physical contact.
3. *Possession of weapons or other dangerous objects*—The possession of a slingshot, air rifle, BB gun, blackjack, sand bag, metal or brass knuckles, switchblade, gun, and so forth.
4. *Drugs*—Manufacture, distribution, selling, prescribing, transporting with intent to sell or dispense; possessing with intent to sell or dispense; offering, giving, or administering to another person one or more preparations, compounds, mixtures, or substances containing heroin, methadone, or cocaine, or a substance containing lysergic acid diethylamide (LSD) or any narcotic or hallucinogenic substance.
5. *Larceny*—The wrongful taking, obtaining, withholding of property from an owner, with the intent to deprive said owner of such property or to appropriate the same for oneself or a third person; the use or the threat of an immediate use of physical force upon another for the purpose of committing a larceny.
6. *Burglary*—Remaining in a building unlawfully with intent to commit a crime.
7. *Criminal trespass*—With the knowledge that one is not licensed to do so, entering or remaining in a building or any other premises after an order to leave or not to enter personally transmitted by the owner or other authorized person.
8. *Arson*—The starting of a fire or causing of an explosion, with the intent to destroy or damage a building.
9. *Riot*—Engaging in tumultuous and violent conduct, thereby intentionally or recklessly causing or creating a grave risk of causing public alarm.
10. *Rape*—Compelling another person to engage in a sexual activity (any forceful act against a male or female to obtain sexual gratification by such acts as oral sex, anal sex, sexual intercourse with or without complete penetration against a female) by the use of force against such other person.

11. *Coercion*—Compelling or coercing a person to engage in conduct that he or she has a legal right to abstain from doing or to abstain from engaging in conduct in which he or she has a legal right to engage.

12. *Loitering in or about school grounds*—Loitering or remaining in or about a school building or grounds without having any reason or relationship involving custody of or responsibility for a student or any other license or privilege to be there.

13. *Academic crimes*—"No person shall prepare, offer to prepare, cause to be prepared, sell, or offer for sale any term paper, thesis, dissertation, essay, report or other written, recorded, pictorial, artistic, or other assignment knowing, or under the circumstances having reason to know, that said assignment is intended for submission either in whole or substantial part under the name of a student other than the author of the term paper, thesis, dissertation, essay, report or other written, recorded, pictorial, artistic, or other assignment in fulfillment of the requirements for a degree, certification or course of study at any university, college, academy, school, or other educational institution which is chartered, incorporated, licensed, registered, or supervised by this State."*

14. *Habitual truancy*—Each school district may adopt regulations concerning habitual truants from school and children between the ages of 7 and 16 years wandering about streets or public places, having no lawful occupation and not attending school. The police in a school district shall arrest any youth found anywhere beyond the proper control of his or her parents or guardian, during the usual school hours of the school terms, and may stop any child under 16 years of age during such hours and ascertain whether he or she is a truant from school and, if he or she is, shall send him or her to school.

Several illustrations of how schools have addressed illegal behavior on the part of students follow:

From Johnny R. Purvis, *Student Discipline Handbook: A Compilation of Procedures, Regulations, and Students Rights as Developed by State Departments of Education in the United States* (Hattiesburg: University of Southern Mississippi).

STUDENT RESPONSIBILITIES AND CONDUCT

The criminal laws of the Commonwealth of Virginia and of the federal government apply to the conduct of all persons on school property. Violations will be dealt with according to these laws and School Board policy. Acts punishable under state and federal laws, as well as under school disciplinary procedures, include the following:

a. Physical assaults against school personnel or any other persons

b. Possession of intoxicants or illegal drugs

c. Theft

d. Unauthorized possession of firearms or other weapons

e. Gambling

f. Vandalism and arson

g. Truancy

(*Fairfax County, Virginia*)

OTHER ILLEGAL ACTIVITIES

A student shall not engage in any conduct on the school grounds, during a school activity, function or event off school grounds or on a school bus which violates any law of the United States, the State of South Carolina or any political subdivision

of South Carolina in which the conduct occurs and which is detrimental to the maintenance of good order and discipline in the school.

(Richland, South Carolina)

CRIMINAL

1. Arson—willfully setting fire to real or personal property
2. Assault—attempting or threatening, physically or verbally, to do bodily harm to another
3. Battery—unlawfully doing bodily harm to another
4. Blackmail—extorting or attempting to extort money or property by the threat of exposure
5. Burglary—breaking into an unoccupied school building or vehicle for the purpose of removing personal or real property
6. Coercion—compelling others to act or take actions against their will, restraining by force, or repressing
7. Engaging in a sex offense or a lewd and lascivious act
8. Extortion—attempting to take property or money from another by the threat or use of force, possibly over a period of time
9. Homicide—taking the life of another individual

10. Initiating a bomb threat or false fire alarm
11. Possessing, distributing, selling, or using firearms, knives, explosives, and other dangerous weapons, objects, and substances, including but not limited to gasoline, oil, and chemicals
12. Possessing, distributing, selling, or using drugs, marijuana, or other mood altering substances, drug paraphernalia, or alcoholic beverages
13. Robbery—taking of money or property from others by the threat or use of force
14. Theft/Larceny—stealing money or property of others or the schools
15. Trespassing—to enter unlawfully upon private or school property
16. Vandalism—willfully damaging property of students, school personnel, or schools
17. Violation of any other local, state, or federal criminal statute

(*Broward County, Florida*)

CRIMINAL ACTS DEFINED

In addition to the above described serious misconduct, the following activities are among those defined as criminal under the laws of the State of Washington.

1. *Arson.* The intentional setting of a fire.

2. *Extortion, blackmail, coercion.* Obtaining money or property by violence or threats, or by forcing someone to do something against his will by force or threats.
3. *Trespass.* Being present in an unauthorized place or refusing to leave when ordered to do so. Students who have been removed from school under discipline, interim suspension, suspension or expulsion are excluded from school property and from all school functions.
4. *Unlawful interference with school authorities.* Interfering with school personnel in their performance of their duties.
5. *Unlawful intimidation of school authorities.* Interfering with school personnel by threats in the performance of their duties.

(*Everett, Washington*)

CRIMINAL ACTS DEFINED

The following activities are among those defined as Criminal (major offenses) under the Fayetteville City School Board Policies pertinent to student conduct.

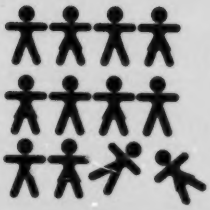
- *Arson*—The intentional setting of fire to school property or intentional setting of fire to property of others while under school supervision.
- *Assault*—Physical threats or violence to persons.
- *Burglary*—Stealing of school or personal property.

- *Extortion, blackmail or coercion*—Obtaining money or property by violence or threat of violence or forcing someone to do something against his/her will by force or threat of force.
- *Firearms (Illegally used)*—Gun, rifle, pistol, dynamite cartridge, bomb, grenade, mine, or other explosives. (N.C.G.S. 14–269.2)
- *Larceny*—Theft. The wrongful taking and carrying away of the personal goods of another.
- *Malicious mischief*—Acts motivated by vicious, wanton, or malevolent intents.
- *Robbery*—Stealing from an individual by force or threat of force.
- *Solicitation*—Soliciting or attempting to sell or explain any article of property or to proposition any school personnel on school grounds, or school sponsored events.
- *Trespass*—Being present in an unauthorized place or refusing to leave when ordered to do so by any person in authority.
- *Unlawful intimidation of school authorities*—Interfering with administrators or teachers by intimidation with threat or force or violence.

(These definitions are not intended to be full legal definitions of criminal acts or indications of the Board to limit the same as here defined.)

(*Fayetteville, North Carolina*)

CHAPTER 5



SANCTIONS AND PENALTIES

Sanctions and penalties are provided as a means of enforcing obedience. Although it is now well established that it is more productive to reinforce positive behavior, there must also be discipline policies reactive to misbehaviors that actually have occurred.

The sanctions that schools employ when negative behaviors occur range from mild, verbal reprimands to more severe and sometimes punitive responses. Sanctions in this handbook are categorized as authoritarian approaches (such as suspensions, corporal punishment, and detention) and educational approaches (such as learning contracts, parent conferences, and alternatives to suspension programs).

Historically, society has developed three major reasons or purposes for discipline:

- *Retribution*—Authorities express disapproval of an act, and the penalty is considered to be the punishment the misbehavior deserves.
- *Deterrence*—The offender is dealt with so as to serve notice on potential offenders, and specific penalties are prescribed for specific crimes.
- *Education or rehabilitation*—The student is allowed to learn more adaptive behaviors. The offender is provided with a learning experience in order to learn to replace maladaptive behaviors with adaptive ones.

These three reasons, then, are sound purposes for disciplining students; for when students misbehave, we do want:

- students to realize there are real consequences attached to breaking rules and that these consequences are not always pleasant.
- the discipline process to discourage the offender and others from committing similar violations
- students to develop more acceptable behaviors

However, it is suggested that school disciplinarians emphasize an educational and rehabilitative approach to discipline, rather than the retributive or deterrent approach, for several reasons:

- Much behavioral research shows that punitive techniques may stop immediate disruptive behavior—but that punitive treatment elicits aggressive behavior and that when punishment alone is used the behavior problem recurs.
- Furthermore, some of the retributive responses to discipline problems are controversial and have been banned. For example, some states and school districts have ruled against the use of corporal punishment.
- Additionally, traditional deterrents, such as suspension and expulsion, also have raised questions. Some juvenile court judges report that students who are removed from school due to suspension or expulsion for extended periods often get into trouble (e.g., vandalism) while they are not in school.

The following sections illustrate the variety of sanctions used by schools. (For further exploration of responses to negative behavior, see the references listed at the end of this handbook. Particularly noteworthy are an article by I. A. Hyman, "Some Alternatives to Corporal Punishment in the Schools," which provides an expanded list of nonauthoritarian approaches to discipline, and NSRN Technical Assistance Bulletin No. 12, "Alternatives to Suspension Programs.")

A. SUSPENSION AND EXPULSION

One of the more traditional and authoritarian sanctions, two of the most serious penalties administered to students are suspension and

expulsion. For example, when unacceptable behavior cannot be corrected by the resources of the school, the school administration may resort to the disciplinary option of suspension as a final effort to influence a student's future behavior. *Suspension* is any denial of school attendance for any period of time that would expire prior to the end of the current school year.

Suspensions may be either short- or long-term. When a principal, or another person designated to perform the duties normally performed by the principal, suspends a student for violation of school rules or for any other act of misconduct or insubordination for a short period, usually not exceeding 10 school days, oral notice and an opportunity to discuss the matter with the principal must be given the student as soon as is practicable, and written notice shall be given within 24 hours to parent(s) or legal guardian(s) stating the reason for suspension. A student should be subject to suspension on a "long-term" basis—for more than 10 days—only after the student has been afforded notice, an opportunity for hearing, and other procedural rights consistent with state and federal due process requirements.

Another option to administrators in an effort to influence student behavior is expulsion. Expulsion may be initiated by school administrators in either of two forms: limited expulsion and unlimited expulsion. *Limited expulsion* is any denial of school attendance through the end of the current school year. *Unlimited expulsion* is any denial of school attendance for a specific period of time beyond the beginning of the next school year or any permanent denial of school attendance.

In the following illustrations of suspension and expulsion statements, varying lengths of time are attached to the sanctions and the due process requirements. (Due process procedures are reviewed in detail in Chapter 6.)

SHORT-TERM SUSPENSION (1 TO 5 DAYS)

A student placed on short-term suspension is prohibited from entering the school, or

school grounds (except for a prearranged conference with an administrator), attending any day or night school functions of the Jefferson County Public Schools, or riding a school bus during the term of the suspension. Short-term suspension shall be for a period of 1 to 5 days, at the discretion of the principal. A short-term suspension may be referred to the Office of Student Relations for disposition. The principal, or his/her designee, may require a parent conference (a mutually acceptable method of conferring may be agreed upon if a conference at school is not possible). Informal due process procedures shall be provided as enumerated in this document.

LONG-TERM SUSPENSION (6 TO 20 DAYS)

Conditions Related to Long-Term Suspensions

1. A student placed on long-term suspension is prohibited from entering any school, or any school grounds (except for a prearranged conference with an administrator), attending any day or night school functions of the Jefferson County Public Schools or riding a school bus during the term of the suspension. Violation of this is cause for expulsion.
2. Long-term suspensions over ten (10) days shall be referred to the Office of Student Relations for disposition. Formal due process procedures shall be provided as enumerated in this document.

3. It shall be the responsibility of the suspending principal or designee at the time of suspension to inform the student and his/her parent of the offense committed and of the right to a formal hearing, of the time constraints therein, and procedural steps involved.
4. Long-term suspensions of over ten (10) days shall require consultation and the approval of the Assistant Superintendent of Student Relations or the Director of Student Relations.

EXPULSIONS

A student who is expelled is prohibited from entering the school, or school grounds (except for a prearranged conference with an administrator), attending any day or night school functions or riding a school bus.

(*Louisville, Kentucky*)

SUSPENSION OF PUPILS FROM SCHOOL

In order to maintain proper order and discipline in the school the principal shall have the authority and option to discipline students by suspension for: (1) a three-day period, (2) a three- to ten-day period, or (3) a third-party hearing if the period of suspension is over ten days. In all cases involving the suspension of students the principal has an obligation to follow procedural due process and exercise rudimentary elements of fair play when taking

disciplinary action against students and such action must be done within the procedural guidelines of the selected suspension policy as hereinafter set forth.

3-DAY SUSPENSION

The principal or the assistant principal may suspend a pupil for a period not to exceed three (3) days for violation of the school's published rules and regulations on student conduct or those adopted by the Board of Education.

The student shall be given an oral or written notice of the charges against him and, if the charges are denied by the student, the principal or assistant principal shall explain the evidence to the student and allow the student to present his/her version of the incident in question. The parent or guardian will be notified in writing of the reasons for such suspension on Form S-94 **(Notification of 3-Day Suspension),** and be given a copy of the District's student suspension policies and regulations.

3- TO 10-DAY SUSPENSION

If the conduct of a pupil is considered to be of such serious nature that the 3-day suspension policy is not adequate discipline, the principal may suspend a pupil for a period of 10 days provided the following procedure has been adhered to:

A. The principal has given the pupil an oral or written notice of the charges against him and has explained the evidence against the pupil, and has allowed the pupil an opportunity to present his or her version of the incident in question.

B. The principal has notified the parent or guardian of the charges against the pupil in writing (Form S-91, **Notification of Suspension Beyond 3 Days**), and has given a copy of the District's suspension policies and regulations to the parent or guardian.

C. The principal has provided the parent or guardian an opportunity for a hearing or conference to discuss the charges against the pupil.

D. The principal has informed the parent or guardian that he or she may be assisted at the hearing or conference by an adult person who may assist him in the proceedings, present his side and question witnesses.

E. The principal shall record all hearings or conferences held under the 3- to 10-day suspension procedures.

(*Dallas, Texas*)

SUSPENSION AND EXPULSION

A student between 5 and 21 years of age is entitled to a free public education. He may continue his secondary education as a postgraduate student where he pursues on a

full-time basis a vocational or occupational course of study after graduation (*Matter of Levy*, 13 Ed. Dept. Rep.—, Decision No. 8695, dated September 5, 1973; *Matter of DiBari*, 13 id.—, Decision No. 8734, dated November 14, 1973).

If a board of education seeks to exclude a student over the age of 16 years, it may do so only in accordance with statutory requirements calculated to assure full due process of law. A board of education need provide no further instructional program for an excluded student over compulsory attendance age (*Matter of Reid* v. *Nyquist*, 65 Misc. 2d 728; *Matter of Chipman*, 10 Ed. Dept. Rep. 224).

Where the board of education seeks to exclude a student under the compulsory attendance age, the board is required to provide alternative instruction for such child (Education Law, section 3214 subdivision 3(e)).

Preferably, minor disciplinary problems are handled within the school by teachers, with the principal dealing with the more serious disciplinary problems which could result in suspension. A teacher, guidance counselor, or an assistant principal may not suspend a student (Education Law, section 3214). The principal may suspend a student for a period not to exceed 5 school days where the board of education has adopted a bylaw which permits him to do so (Education Law, section 3214,. Otherwise, only the board of education, board of trustees or sole trustee, district superintendent, or superintendent has the power to suspend students (Education Law, section 3214).

The following students may be suspended from required attendance, according to section 3214 of the Education Law:

- a student who is insubordinate or disorderly, or whose conduct otherwise endangers the safety, morals, health, or welfare of others;
- a student whose physical or mental condition endangers the health, safety, or morals of himself or others; and
- a student who, as determined in accordance with the provisions of the law, is feebleminded to the extent that he cannot benefit from instruction.

No student may be suspended for a period in excess of 5 school days unless he and the person in parental relation to him shall have had an opportunity for a hearing at which the student shall have the right to be represented by an attorney, the right to present witnesses and other evidence on his own behalf, and the right to cross-examine witnesses against him. A student who has been suspended prior to a hearing must be placed back in school or provided with suitable alternative instruction commencing with the sixth school day if the hearing has not been concluded or the superintendent or board of education has not rendered a decision as of that date (*Matter of Anderson*, 11 Ed. Dept. Rep. 45). The notice of the hearing should advise the student of the grounds for the charges in specific enough terms to enable him to anticipate reasonably the subject content of the proposed hearing and to prepare a defense thereto (*Matter of Rose*, 10 Ed. Dept. Rep. 4; *Matter of Henderson*, 11 id. 3; *Matter of Lawlor*, 11 id. 261).

The student should be allowed to remain in school prior to the hearing unless his presence in school poses a clear danger to his physical or emotional safety, to other students, faculty, or institutional property,

or to the continuation of the learning process (*Stricklin* v. *Board of Regents of the University of WIsconsin*, 297 Fed. Supp. 416; appeal dismissed, 420 Fed. 2d 1257).

The student may bring a parent with him to the hearing, and both the student and the person invoking the hearing procedure may be represented by counsel. An interpreter should be available, if needed.

At the hearing, persons having direct knowledge of the facts should be called to testify. Hearsay evidence alone is not sufficient, notwithstanding the administrative nature of the proceeding. There must be some direct evidence of guilt of the charges. As in courts, the burden of proving guilt rests upon the person making the charge, and the student is entitled to a presumption of innocence of wrongdoing unless the contrary is proved (*Matter of Montero*, 10 Ed. Dept. Rep. 49). The student may testify in his own behalf and is free to cross-examine witnesses against him.

Both the superintendent and the board of education are authorized to appoint a hearing officer to conduct student disciplinary hearings. The report of the hearing officer is advisory only, and the superintendent or board may accept or reject all or any part of such report. A record of the hearing shall be maintained either by a stenographic transcript or by use of a mechanical recording device. The student should, on appeal, be provided with a copy of the transcript upon his written request.

If the student is not absolved of the charged acts of misconduct, he may appeal the findings and determination of the superintendent to his board of education.

Where the board of education has, itself, made the determination or has, on appeal, affirmed the determination of its superintendent, a student may further appeal either to the Commissioner of Education in accordance with the provisions of section 310 of the Education Law or to the courts pursuant to Article 78 of the Civil Practice Law and Rules.

(*State of New York*)

SUSPENSION AND EXPULSION

Suspension and expulsion are the most serious punishments utilized by school administrators. They should be reserved for situations where there is no alternative action that could be taken.

The school may be able to suspend or expel you for other things, but these must be major violations of the rules. (Selling drugs in school would be an example.) You cannot be suspended for violation of a rule of which the students were never informed and which you could not reasonably be expected to know. You may want to ask your principal to give all students a written copy of school rules. This may prevent later misunderstandings.

In New Jersey, you are entitled to a preliminary hearing before you are suspended and to a full hearing within 21 days after your suspension. The only time you can be suspended without a preliminary hearing is when the school can prove that you are

dangerous to yourself or other students.

The school principal must report your suspension to the superintendent. He, in turn, must report the suspension to the Board of Education at its next regular meeting. You cannot be suspended beyond the second regular meeting of the Board unless the Board votes to continue the suspension. Only the Board of Education can expel a student.

If, at your hearing, you are found innocent of the charges against you, be sure no mention is made of the incident in your school records.

Any suspended student must be given the opportunity to make up any work missed and the grade for that work must be computed as if he had done it at the usual time. In other words, the school cannot lower your grades as punishment.

"Expulsion" is sometimes interchanged with "suspension." They are not the same thing. Expulsion is a permanent dismissal from school. It usually lasts at least through the end of the school year and may extend beyond that.

(*Newark, New Jersey*)

SUSPENSION

Short-term suspension is any denial of school attendance for three days or less.

Long-term suspension is any denial of school attendance for a period in excess of three days but not beyond the current school year.

EXPULSION

Limited expulsion is any denial of school attendance which will terminate at the beginning of the next school year.

Unlimited expulsion is any denial of school attendance for a specific period of time beyond the beginning of the next school year or any permanent denial of school attendance.

(*New Orleans, Louisiana*)

B. CORPORAL PUNISHMENT

One of the most serious and controversial penalties for students is corporal punishment. As already noted in the introduction to this chapter, in some states and school districts (Massachusetts, New Jersey, New York, Chicago, and the District of Columbia) corporal punishment is illegal, and the research regarding the effect of this penalty is inconsistent, although it leans toward the conclusion that it is more harmful than useful (by causing the student to become aggressive).

If a school does allow corporal punishment, school policies and procedures regarding physical punishment of students should be drawn up with the cooperation of an attorney, adopted and disseminated, and periodically reviewed with the professional staff. Courts are constantly reviewing corporal punishment procedures—with mixed results—based largely upon the facts in particular situations, that is, upon whether criminal or civil charges can be brought to bear on the individual before them who administered the "paddling" instead of on the basis of due process or whether or not corporal punishment is in itself cruel and unusual. An attorney's review may assist in ensuring that a school district's corporal punishment procedure does not create a "bad fact" situation.

If a school should choose to use corporal punishment, there are common law principles regulating it:

- Punishment should not be unreasonable.
- Punishment should not be excessive in view of age and sex of the student.
- Punishment should not be excessive in view of the gravity of offense.
- Punishment should not be administered maliciously.

Several statements regulating corporal punishment are as follows:

PHYSICAL PUNISHMENT

Good discipline in the school is extremely important to the total school program and is vital to the development of citizenship. In dealing with pupils, teachers are expected to exercise toward them those courtesies which pupils are required to show teachers. The finest possible human relationships should at all times be maintained.

A. Physical punishment may be administered after other control measures have not appeared effective, and after the nature of the offense has been explained to the pupil.

B. When necessary to administer physical punishment, it should be done with the approval and in the presence of the principal, but not in the presence of the class.

(*Montgomery, Alabama*)

CORPORAL PUNISHMENT

Corporal punishment is considered only in cases where other means of seeking cooperation from the student have not been successful and it appears that corporal punishment is the most appropriate means of dealing with a particular student's behavior. The student should understand the reason for his punishment. The period of time between the offense and punishment should be reasonable. Corporal punishment must be moderate and must be administered in the presence of another adult as a witness.

Principals or their designees are authorized by District policy to administer any reasonable punishment, including corporal punishment.

In administering corporal punishment, the following guidelines must be observed:

a. District policy must be followed and corporal punishment should be used only as one means of helping a child arrive at self-control after alternative disciplinary actions have been taken.

b. All corporal punishment should be administered in a mild and moderate manner, not administered arbitrarily or in anger.

c. Caution in administering corporal punishment should be used if the student claims that he or she did not know that the conduct was prohibited.

d. If a student claims that he or she is innocent of conduct which merits punishment, sufficient inquiry should be

made as to the facts in the incident to determine if the student is guilty beyond any reasonable doubt.

e. A student claiming that he or she is innocent should be allowed to respond to witnesses and be accorded the opportunity to question the witnesses.

f. Corporal punishment should not be administered if physical force has to be applied to a student who resists. The parent should be notified and appropriate alternatives should be considered.

(*Dallas, Texas*)

The principal or faculty member may administer corporal punishment* in accordance with Kentucky Revised Statutes and the policies and procedures of the Jefferson County Board of Education. Corporal punishment should never be employed as a first line of correction. Such policies and procedures provide that the principal or teacher must insure that the student is informed beforehand that the specific behavior will result in physical punishment. The principal or faculty member shall use corporal punishment only in private and in the presence of a

*Corporal Punishment—physical punishment which teachers are granted the discretionary authority by law to employ upon a student for disciplinary purposes so long as said punishment is reasonable, within the bounds of moderation, not cruel or excessive, and used within the guidelines set forth in this Code.

second school official (principal or faculty member). The second school official shall be informed of the reason for the punishment in the student's presence prior to administering the punishment. The student does not have to be afforded a formal opportunity to present his/her side to the school official. The official who administers such punishment shall provide the student's parent or guardian a written or oral explanation of the reasons for administering the punishment and the name of the second official who was present. The objection of a parent or guardian to corporal punishment shall be honored provided the objection is for medical reasons and supported by medical evidence.

(*Louisville, Kentucky*)

If corporal punishment is to be used, the following statement contains recommended principles:

CORPORAL PUNISHMENT. . . .

South Dakota law permits superintendents, principals, supervisors, and teachers to inflict corporal punishment on students who are insubordinate or disobedient. Such punishment may be inflicted both within the school and at official functions away from the school. Bus driv-

ers may also inflict corporal punishment for infractions of good order and safety while students are riding, boarding, or leaving the bus.

All corporal punishment must be "reasonable" considering the age, size, sex and general physical strength of the student. It must not be cruel or excessive, or result in permanent injury. It must not be actuated by malice or passion. Arising out of the teacher's in loco parentis (in place of the parent) relationship, the standard required of the teacher is that which the normal, prudent parent would do in the same or similar circumstances. Thus, reasonableness must be decided on the basis of the facts in each case; since all cases differ, the circumstances are controlling on the question of reasonableness.

Excessive punishment has been held by the courts to constitute assault and battery where the circumstances show that a teacher or other school official has exceeded the behavior of the normal, prudent parent (who has the welfare of the student at heart).

(*State of South Dakota*)

C. PROBATION

Often the school staff will try a number of different sanctions before resorting to removing the student from school. For example, a principal might wish to allow a student to continue classes and participation in school activities on a conditional basis for a period of time. This supervised and provisional period is called probation. The statement on probation from White Plains, New York, illustrates such a policy:

STUDENTS

Probation and Suspension

Probation and suspension are extreme measures to be employed only when all available school resources are unable to cope constructively with pupil misconduct.

Probation is conditional enrollment during a trial period, imposed at the discretion of a principal or superintendent.

Suspension from school is normally a temporary status in which a pupil may be placed by a principal, the board, or the superintendent, as provided by law.

Parent Notification

It will be the policy of this district to notify each parent before a student is suspended. Failing this, each parent will be notified of a suspension within 24 hours. The parent and/or his representative will be offered the opportunity of a meeting with the principal and complaining witness or witnesses. The suspension will become part of the student's record only after such meeting is held, or the parent or his representative waives the right to a conference with the principal, and then only in the event the charge is sustained by a preponderance of the evidence.

(*White Plains, New York*)

D. DETENTION

Another type of punishment used to change student behavior is detention. Detention requires that a student remain in the school

outside regular class hours. As the following examples indicate, most schools require that the parent be notified.

DETENTION OF STUDENTS

A school administrator or teacher may detain a student for disciplinary reasons outside of regular school hours, provided the parent has been notified of the detention and, in the case of bus students, arrangements have been made for the student's transportation home.

It is recommended that teachers use their very best judgment in detaining students after regular school hours, and that such detention not exceed 30 minutes.

Students who are detained after school must never be left alone during their detention. Supervision must be provided, or arranged for, by the teacher or administrator who imposed the detention.

(*Boulder, Colorado*)

An administrative head or a teacher may detain a pupil at the close of school for not more than one hour for disciplinary reasons.

(*Boston, Massachusetts*)

DETENTION

Students receiving punishment in the form of detention report this fact to their parents and then begin serving the detention period after school. Detention time is never served on the same day that detention is chosen as the form of punishment unless parents are given prior notification.

(*Dallas, Texas*)

E. RESTRAINT

Restraint is an immediate and, obviously, short-term response that a school administrator or teacher may wish to take to control a student's behavior. It is important that physically controlling a student's behavior be for the purpose of preventing the student from harming himself or herself or others and that the use of force be reasonable; the following illustrations demonstrate this concept:

A teacher may, without advance approval of the principal, use reasonable physical force to restrain a student whenever immediate action is essential for self-defense, preservation of order, or protection of other persons or property. When a faculty or staff member is utilizing reasonable force to restrain or correct student be-

havior, the faculty or staff member will be acting under the authorization of the Board of Education.

(*Louisville, Kentucky*)

An administrative head, teacher, or other school employee may use reasonable and prudent force or restraint for the purpose of maintaining order, safeguarding the persons of pupils and school employees, or removing an offender. Without in any way limiting the foregoing, no school personnel may use physical force with a rattan or otherwise for the purpose of imposing punishment after a student has ceased engaging in misconduct.

(*Boston, Massachusetts*)

Restraint is the act of controlling the actions of a student when such action may inflict harm to himself, herself, or others. Teachers and administrators must feel free to use reasonable and appropriate means at the moment as may be necessary to prevent a student from harming himself or herself or others, or to prevent a breach of discipline. Factors determining reasonable and appropriate means are:

1. Age
2. Physical stature and strength of the student
3. Previous history
4. Maturity of student

5. Seriousness of the action requiring control
6. Motive and state of mind
7. The nature of the danger to the student or the nature of the danger to others
8. Restraint must not cause serious or permanent harm. No instrument shall be used which will produce physical injury to the student.

Whenever restraint is used, it shall be reported immediately to the building principal or designee.

School personnel shall use the least amount of force necessary to stop the breach of discipline.

(*Des Moines, Iowa*)

F. FINES AND RESTITUTION

A sanction that is becoming more frequently used requires students, or more specifically their parents, to pay for lost or damaged school property:

FEES

The Picayune Public Schools do not assess any student fees; however, a parent or guardian may provide their child with sup-

plementary books and materials. Any student damaging school property will be subject to Mississippi School Law 37–11–19. "If any pupil shall wilfully destroy, cut, deface, damage, or injure any school building, equipment or other school property he shall be liable to suspension or expulsion and his parents or person or persons in loco parents shall be liable for all damages."

(*Picayune, Mississippi*)

RESTITUTION

The pupil may be required to provide restitution to repair or replace damaged property, and pursuant to section 8–654.1 of the *Code of Virginia*, parents may be held financially responsible for damages up to $200.00 for the willful or malicious destruction of or damages to school property by students.

(*Alexandria, Virginia*)

G. ALTERNATIVE-TO-SUSPENSION PROGRAMS

Some disciplinary tactics that are typically labeled "creative discipline" or learning sanctions can provide effective alternatives to punitive measures. Arkansas, Connecticut, and Louisiana report their support and guidelines for alternative-to-suspension programs that may be summarized as follows:

As an alternative to suspension or expulsion, the student is offered an alternative means of continuing his or her education. However, if for any reason the parent(s) or legal guardian(s) of the student do not want to have him or her enrolled in an alternative program, the parent(s) or guardian(s) can choose total exclusion from school for his or her youngster for the suspension or expulsion period.

Goals for a school's alternative center may be:

1. to provide a place within the school system for the supervision of students who would otherwise be suspended
2. to maintain the educational continuity during the time the student has lost the privilege of attending regular classes
3. to return the student to his or her regular classes with appropriate behavior and attitude change as quickly as possible
4. to refer parents and students to agencies for appropriate behavior and attitude change as quickly as possible
5. to gather data on students assigned to the center who would formerly have been suspended in an attempt to learn why certain students become "discipline problems," and to identify and work with potential dropouts and chronic disciplinary cases
6. to increase the student's decisionmaking skills
7. to develop objective and subjective reality awareness

8. to solicit public support to provide for more community services to augment the school's program and to follow up on problems identified in the school setting

(*States of Arkansas, Connecticut, and Louisiana*)

A program in White Plains, New York, provides a specific example:

IN-SCHOOL SUSPENSION PROGRAM

1. Objective

   a. To provide a center for students of the secondary schools who have committed infractions of the school rules and regulations. These infractions are those that are not serious enough for out-of-school suspension. They will include, but are not limited to the following: Truancy, cutting, tardiness, fighting and disorderly conduct, smoking and inappropriate dress.

   b. To have immediate follow-through and communication with the parents,

counselor, and building administrator concerning these acts of misbehavior.

2. Description

   a. Students will be assigned to the center by a building administrator. The students will be under the direction of a teacher aide, but will work in close proximity to the administrator assigned and will work in collaboration with him on center activities. The teacher aide will be responsible for the direct supervision of individual and group instruction assigned by the various teachers.

   b. While assigned to the center, student will be isolated from the social activities of the school. Arrangements will be made for lunch so that those on suspension will eat at a different time from the regular pupils.

   c. The rules for in-school suspensions will be the same, basically, as for those on out-of-school suspension. In any case, it should be emphasized that the assignment to the center and the reassignment back to a regular schedule will be made by the appropriate administrator.

3. Site

   a. Each building has designated an area for the class. As indicated above, the area selected is in close proximity to the administrator in charge; thus, professional help is readily available.

(White Plains, New York)

Dallas reports on "alternative class placement methods":

ALTERNATIVE CLASS PLACEMENT METHODS

Many students require alteration of their daily schedules or temporary removal from their regular classes in order to successfully adjust their behavior patterns. The following methods provide those alternatives.

Student-Adjusted Scheduling

Many students respond favorably to having the responsibility for adjusting and adhering to their own program schedules.

Home Study Program

A special program may be designed for students who need to remain at home for reasons other than ill health. As a means of providing for continuation of school work, a special teacher secures the student's assignments from classroom teachers and reports on progress made.

Restricted Academic Services Rooms

These rooms are designed to allow on-campus suspension. Students remain on

the campus in a designated location, with an adult supervisor overseeing their work. Students receive assignments from their teachers and work on those assignments while in the Academic Services Room. Counseling is provided on a regular basis.

School-Within-a-School

Students are assigned to a special instructional room where an interdisciplinary team-teaching unit conducts instruction in all subject areas. The students work in a simplified setting without the variety and contacts of the normal program schedules. Various modifications can be permitted to provide for physical education, lunch or partial return to regular schedules, then returning to the team setting for basic instruction.

Special Scheduling

Making scheduling adjustments for students who seem to need such changes often results in positive improvements in student behavior as unique needs are more adequately met.

Metropolitan Schools

Metropolitan middle and senior high schools are alternative schools which provide flexible scheduling, varying rates of progress, and course offerings at all performance levels. Students are referred to the five Metropolitan schools by school principals, by the Office of Student Affairs or by direct application of the student

and/or parent as a bona fide dropout. A committee of Metro staff screens applicants and assigns them to the most appropriate Metro school setting. The school staff diagnoses each student's needs and, in concert with the student, agrees on a contract. Each student's contract is different and many of the instructional activities provide adapted experiences.

(*Dallas, Texas*)

H. MORE LEARNING SANCTIONS

There can be as many different kinds of alternative-to-suspension learning experiences provided for students as teachers and other school personnel have the creativity to design. The options are unlimited. The main idea is to arrange, together with the student if possible, an experience in which the student can learn to replace maladaptive behaviors with constructive ones. Additionally, it is ideal if the student's academic experience is not interrupted and if any causal factors related to the misbehavior (such as disruption in the home or poverty) can be addressed.

Examples from schools that have been quite innovative in developing preventative and learning approaches to discipline follow:

PREVENTIVE OR GUIDANCE-ORIENTED ALTERNATIVES

"Adoption" by Teacher:

A teacher who seems to get along well with the student who is experiencing behavior

problems may "adopt" him/her as a special concern, attempting to become personally friendly with the student and asking him/her to "check in" with that teacher several times daily to note problems the student may be having as well as progress the student is making. This method seems to work well with some students whose behavior expresses the need for adult approval and attention.

Assignment to Leadership Positions

Some students who are experiencing behavioral difficulty as the result of needs for attention and adult approval respond well to having assigned responsibilities. Temporary or permanent placement in positions of leadership and/or responsibility such as office assistant or classroom helper sometimes does away with the student's need to seek attention in negative ways.

Contracts

Many students respond positively by ceasing disruptive behavior as part of a "contract" negotiated with teachers or administrators.

Counseling Methods

Group and/or individual counseling of both a problem-preventing and a problem-solving nature is available to students by professionally trained personnel. Counselors, visiting teachers and psychologists are among the personnel available for these services.

Key-Link Program

A member of the high school Key Club is sometimes assigned as a "peer counselor" to a junior high student who is having behavioral difficulties in an effort to help the younger student find more effective ways for dealing with problems than through disruptive actions.

Pupil-Personnel Committee

The Pupil-Personnel Committee in each school meets regularly with the teachers of students who are referred to the committee in a cooperative effort to identify and attempt to provide solutions for student problems. Teachers, counselors, the principal, the school nurse, visiting teachers and school psychologists may serve on this committee.

Referral for In-District Professional Help

The District provides many professionals who may be called upon by principals and parents for help: visiting teachers, school psychologists, reading clinicians, specialists in learning disabilities and others.

Parent Conferences

Conferences with parents of students who seem to be having unusual difficulties are beneficial. These conferences may be requested by the parents, the principal, the teacher or the counselor.

(Dallas, Texas)

HOW THE PLANS WILL BE USED

An effort has been made to list types of unacceptable behavior and match them with suitable consequences. Where possible the unacceptable behavior and the consequences which apply progress from less serious to more serious. The progression in severity applies not only to plans but to the consequences within each plan.

It is reasonable to presume that the less severe types of unacceptable behavior apply essentially to primary students and are therefore listed first. By the same token, as students grow older they should be held more accountable for their behavior, and the resulting consequences.

Most types of unacceptable behavior occur in the presence of a teacher. When the infractions are minor and call for Plan A, it is the responsibility of the teacher to handle the situation until all strategies at the teacher's command have been exhausted. In most instances the Code provides two plans of consequences for each misbehavior. They may appear in two different ways; example:

Plan B
Plan C or **Plan B or C**

When the plans appear one under another, Plan B (or the first plan as it appears under the given "Unacceptable Behavior") should be used the first and second time the misbehavior occurs. If the misbehavior continues, or the student has committed a more serious infraction, a more serious consequence (Plan C or the second alternative) will be necessary, skipping the steps already taken in Plan B. When the offend-

ing student is referred to administration the teacher sending the student must complete a referral form explaining in detail the infraction(s) and steps that have already been taken.

When the plans appear as "Plan B or C" the seriousness of the offense, the age of the student, the frequency of misconduct, the attitude of the student, and the degree of cooperation should determine which of the two plans will be followed. When an administrator is applying the consequences, ALL action taken MUST be documented in detail.

Note: (1) When using ANY of the Plans as outlined in the Code, it is not necessary to use every item. Items may be skipped.

(*Broward County, Florida*)

The principal may counsel with the student regarding the offense in an attempt to correct the behavior and to prevent its recurrence. A guidance counselor should be involved if a problem seems to stem from causes deeper and more serious than simple misbehavior.

The principal may convene a conference with the parents and/or guardian, the student, counselor, and the reporting teacher to secure parental support of the administrative action. Every effort should be made to assure parent or guardian participation in conferences.

Other optional in-school measures short of suspension may be used by the local school administration and faculty to correct misbehavior. These options include:

1. Verbal reprimand
2. Notifying parent of student's misconduct (by phone or letter)
3. Temporary separation from peers
4. Special assignments (constructive)
5. Behavioral contracts
6. Conference with parent where parents are requested to assist with the appropriate response to the student's misconduct
7. Temporary withdrawal of school privileges
8. Detention
9. Time-out rooms or alternative to suspension rooms
10. Schedule changes
11. Counseling and/or evaluation
12. Recommending transfer to another class or school
13. Reasonable work details
14. Extended separation from peers
15. Extended loss of school privileges

(*Louisville, Kentucky*)

If a student exhibits undesirable behavior which is detrimental to the best interest of the individual or the school community, prior to taking serious disciplinary measures, school personnel have the responsibility to take alternative courses of action, such as:

- Class assignment and group changes if needed
- Referral to guidance counselor if the student attends middle, junior, or senior high school or to the school social worker if the student attends an elementary school
- Referral to available educational alternatives, such as special schools (e.g., Gateway), trade and vocational schools and innovative programs and special instructional arrangements in conventional school settings (e.g., work-study programs)
- Referral to appropriate community agencies

(*New Orleans, Louisiana*)

The principal or other school official responsible for the school or program may establish a special class or other supervised program for students who are suspended or excluded from class.

(*Washington, D.C.*)

WITHDRAWAL OF PRIVILEGES

If a student displays unacceptable behavior on numerous occasions or severe misconduct on a single occasion, such behavior may result in his/her being denied participation in extracurricular activities by the principal for a designated period of time.

WORK ALTERNATIVE

Defacing or damaging school property is frequently handled by permitting the student to repair the damage caused or to make some useful work contribution to the school as an option to disciplinary action.

OTHER DISCIPLINARY PROCEDURES

Other alternative disciplinary procedures may be used if, in the professional judgment of the principal, the infraction does not warrant those disciplinary actions cited above.

(*Dallas, Texas*)

RESOURCE OR LEARNING CENTER

The principal may refer a student to a resource or learning center to afford an opportunity to develop more deeply the reasons and background of the disciplinary problems in an attempt to work out with the student and his family a solution that will permit attendance in regular classes.

IN-SCHOOL SUSPENSION

The student may be formally suspended from the regular school program and assigned an in-school suspension by the principal or, in the principal's absence, any assistant principal. Parents will be ex-

pected to attend a conference with the school administration in solving the problems of the student.

(Alexandria, Virginia)

HOME CONTACT

In the event that it is deemed appropriate by the principal of the building, a student may be assigned to the in-school center for remedial work or individualized instruction until such time as the matter can be resolved through conference with the parents or guardian. The student must be provided with a written statement specifying the reason for the assignment. A copy of the statement will be attached to the letter mailed to the home informing the parents or guardian of such assignment. Such letter will be mailed within four (4) hours of such assignment and will be sent by mail (first class).

(Albion, New York)

ADMONITION AND COUNSELING

These are used to help a student understand when his or her conduct interferes with the student's own educational progress, threatens the rights of others, or is contrary to school policy or regulations. They shall not be used in a manner to belittle a student in the presence of peers.

SPECIAL INSTRUCTIONAL ARRANGEMENTS

A student may be removed from the regular class schedule and assigned to a program of in-school study under restrictive supervision for a fixed period of time or until specified conditions have been met. Students removed from their regularly scheduled classes to engage in special instructional arrangements shall be afforded an opportunity to receive full credit for work performed. If the arrangement is to continue for more than one day, parents' consent shall be obtained.

(*Fairfax County, Virginia*)

REQUEST FOR PARENTAL CONFERENCE

Principals and teachers are encouraged, whenever possible, to request conference with parents or guardians to discuss a student's behavior problems prior to the problems developing to the point that severe action is necessary. Requesting a conference shall not be considered a suspension.

Failure of parent to keep designated conference will be considered a parental neglect and may result in legal action.

(*Montgomery, Alabama*)

An administrative head or teacher may bring a disciplinary problem to the attention of a pupil's parent or guardian and may require attendance of such parent or guardian at a conference.

(*Boston, Massachusetts*)

PARENTAL CONFERENCE

Parental conferences involving the student, the parents, and the assistant principal may be requested by either the assistant principal or the parents. These will be informal in nature and directed toward resolving reported problems.

(*Albion, New York*)

REFERRAL FOR COMMUNITY PROFESSIONAL HELP

Teachers, principals and parents often recognize that student misbehavior may express serious needs that are difficult for either school or the parents to meet. A variety of community agencies serving youth may be called in by principals or parents for assistance: Big Brothers, Salesmanship Boys' Camp, Girls' Adventure Trails, Dallas Child Guidance Clinic and others.

HOME VISITS

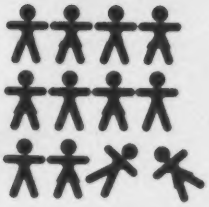
Visits by members of the school staff to the homes of students who are experiencing problems often result in increased communication and understanding between school staff and parents regarding the students' problems, and, therefore, can lead to more successful solutions to those problems.

BUDDY SYSTEM

Sometimes an older or more successful student may serve as a special guide or peer counselor to the student who is experiencing behavior problems. Sometimes the student who is having difficulty is motivated or encouraged in performance by being designated as a "buddy" to a younger student.

(*Dallas, Texas*)

CHAPTER 6



DUE PROCESS AND DISCIPLINARY PROCEDURES

Nationwide, schools are wrestling with the question of due process—what it means and how to ensure it. Due process is a right guaranteed by the U.S. Constitution and reaffirmed in recent Supreme Court decisions. The Constitution defines due process as follows:

> No person shall be . . . deprived of life, liberty, or property, without *due process of law*. . . .
>
> *Fifth Amendment, Bill of Rights, U.S. Constitution*

> . . . nor shall any State deprive any person of life, liberty, or property, without *due process of law;* nor deny to any person within its jurisdiction the equal protection of laws.
>
> *Fourteenth Amendment, U.S. Constitution*

The Supreme Court ruling in *Goss* v. *Lopez* addresses the specifics of "what process is due":

- oral or written notice of charges
- an opportunity to respond to the charges

Expulsion and longer suspensions (10 days) may require more formal procedures:

- opportunity to secure counsel
- a chance to confront and cross-examine witnesses
- written record showing evidence for decision
- right to appeal

A basic ingredient of due process of law is that an individual who is not satisfied with a decision may appeal it to a higher authority. Thus, the student may appeal a decision of a teacher to the principal, and after that the principal's decision to the superintendent. The superintendent's decision may then be appealed to the school board, and if still not satisfied, the student may (through an adult) appeal his or her case to court.

Boulder Valley School District, Colorado, illustrates one of the most thorough statements written regarding the suspension and expulsion of students:

NOTIFICATION OF DUE PROCESS

Students are to have clearly established means by which "administrative due process" is available to see that the individual's rights are protected. Students are to be involved, singly and collectively, as citizens of the school with the attendant rights of such citizenship and corresponding responsibilities for the proper conduct of their own affairs and those of other students.

Due process may be defined as a course of legal proceedings in accordance with the rules and principles established for the enforcement and protection of individual rights. The concept applies to any dispute between two parties. As a legal concept, enforceable in the courts, it derives its

validity from the presence of a court of competent jurisdiction, which has a duty to see to it that the individual's rights are protected. These same conditions are equally necessary to administrative procedures in schools, although they may be discussed and handled in an informal way in most cases.

Of equal importance is the right of school authorities to prescribe and control—consistent with fundamental and constitutional safeguards—student conduct in the schools.

Definitions

1. "Suspension" means the exclusion of a student from attending school activities for a specified and limited period of time as set forth under "Suspension Authority."
2. "Expulsion" means the exclusion of a student from attending school and participating in school activities for a specified period of time not to extend beyond the school year in which the expulsion occurs.

Grounds for Suspension/Expulsion

1. Continued willful disobedience or open and persistent defiance of proper authority
2. Willful destruction or defacing of school property
3. Behavior which is inimical to welfare, safety, or morals of other pupils

4. Physical or mental disability such that the child cannot reasonably benefit from the programs available

Suspension Authority

1. A school principal or his/her designee, by written authority of the principal, may suspend a student in his/her school for not more than five school days on the grounds stated in "Grounds for Suspension . . ."
2. The superintendent of schools may suspend a student for another 10 school days on the grounds stated in "Grounds for Suspension . . ."
3. The superintendent of schools may extend a suspension for an additional 10 days if necessary in order to present the matter to the next meeting of the Board of Education.

Suspension Procedure

1. The student will be given oral or written notice by the principal or his/her designee, by written authority of the principal, of the charges against him/her which must be one of those set forth under "Grounds for Suspension . . ."
2. The student will be provided an opportunity to present his/her side of the story. If the student denies the charges, he/she will be given an explanation of the evidence which the authorities have. This shall not include the right to secure counsel, to confront and cross-examine witnesses or to call his/her own wit-

nesses to verify his/her version of the incident.

3. A student whose presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process may be immediately removed from the school by the principal or his/her designee. In such cases, the necessary notice and rudimentary hearing should follow as soon as practicable.
4. If a decision is made to suspend a student, he/she will be notified by the principal or his/her designee, and within one day of the suspension, the school principal or his/her designee shall send a letter to the parent and the student explaining the action taken, stating the days during which the suspension will be in effect, and inviting the parents to meet with the principal for the purpose of discussing the matter if they wish to.
5. Nothing contained in this procedure shall prevent the principal or his/her designee from arranging for parents to attend the meeting with the student at which notice of the charge is given and a hearing is held if necessary, provided that in the judgment of the principal or his/her designee it is in the best interests of the school and the student to do so, and that the meeting can be conveniently arranged.

Expulsion Authority

1. The Board of Education may conduct the hearing at which the question of expulsion is determined.

2. The Board of Education may delegate the power to expel a student to the superintendent of schools, provided that at its next meeting the superintendent shall report on each case acted upon, briefly describing the circumstances and the reasons for the action.
3. In any case in which the power to expel has been delegated to the superintendent of schools, the decision of the superintendent may, upon the written request of the student or parent, be appealed to the Board of Education. If this occurs, the Board will determine the appeal procedure to be utilized and will promptly advise the student and parent involved.

Expulsion Procedure

1. The student and his/her parent will be given written notice of the charges against him/her which must be one of those set forth under "Grounds for Suspension/Expulsion."
2. A hearing will be held within 10 school days of the receipt of written charges. The hearing will be before the Board of Education or the superintendent of schools.
3. A student may be suspended pending an expulsion hearing, provided the procedures for suspension are complied with.
4. At the hearing the student may be represented by counsel and will be afforded the opportunity to confront and cross-examine witnesses supporting the charge and to call his/her witnesses to verify his/her version of the incident.

5. The Board of Education or superintendent of schools, as the case may be, will make specific findings in support of any decision reached and in the event of a decision to expel the student will be advised of his/her right to obtain judicial review.

(*Boulder, Colorado*)

The Chicago, Illinois, city schools very clearly spell out the rights of students when faced with a suspension:

SUSPENSION RIGHTS

If you are going to be suspended from school for ten days or less, you have some rights that you should know about.

- If you are going to be suspended you have the **Right To A Hearing Before the Principal or Assistant Principal.**
- You cannot be suspended by a teacher, **Only The Principal or Assistant Principal Can Suspend You.**
- When you have a hearing you must be told **What Rules You Have Broken And What It Is That You Have Done To Earn A Suspension.**

- At your hearing you have the **Right To Tell Your Side Of The Story.**
- If you feel that a witness or your parent would help your case, you have the **Right To Bring Them To Your Hearing.**
- Once you are suspended, you have the **Right to Keep Up With Your Classes During The Period of Suspension.**
- Even though you are suspended, the school **Should Not Change Your Grades Because of The Suspension.**
- Once the school suspends you it **Must Let Your Parents Know That You Are Suspended And The Reasons For It.**
- Finally, the school is obliged to report **All Suspensions to the District Superintendent.**

(*Chicago, Illinois*)

Due process is afforded students in disciplinary cases, such as expulsion, suspension, statements removed from a student's record(s), and clearing a student's reputation.

Three requirements govern the question of whether or not a student has been afforded due process of law in school:

- There must be a fair and reasonable rule that has been broken or disobeyed.
- The rule must apply equally to all students.

- If punishment is given for the violation of a reasonable and fair rule, the procedure by which the punishment is assessed must be fair, reasonable, and impartial.

This third criterion usually includes concepts reviewed earlier and includes guarantees that the student will be able to:

- receive the charges in writing within a reasonable time
- be given sufficient notice of time and place of hearing
- appear with counsel
- confront and cross-examine
- face accusers and refute charges
- be heard by an impartial tribunal
- be privileged against self-incrimination
- receive a transcript of the proceedings
- appeal

An illustration of a policy on due process follows:

DUE PROCESS

A. All systemwide and local school regulations that restrict a student's liberties and rights must have a valid goal and must be reasonably expected to achieve this goal.

B. Reasonable notice will be given regarding the availability of all published policies, regulations, and rules affecting students. The MCPS *Policies and Pro-*

cedures and this document should be located in the media center of each school and available to students. Each school should publish its disciplinary statement, developed cooperatively by parents, students, and staff, and make copies available to all students. Students shall not be punished for violating any rules which are not covered by MCPS *Policies and Procedures*, the countywide *Statement on Discipline*, the disciplinary statement issued by the school, or other previously published rules.

C. Procedures for Complaints and Appeals

1. Students have the right to appeal actions of school administrators and student governments restricting student freedom and have the right to appeal actions of school-affiliated student organizations denying a student membership.

2. Each school shall establish procedures for the consideration of student problems and the processing of student complaints and appeals. These procedures should be developed through the cooperative efforts of students, faculty, and administration and shall provide for defined time frames to insure speedy resolution of complaints.

3. The student has the right to impartial, expeditious hearings, preceded by clear explanation of procedures for further appeal; and the student has the right to examine witnesses.

4. Any decision of the principal may be appealed to the area assistant superintendent and the superintendent of

schools. (This appeal procedure is outlined in the guidelines to this section.)

5. Nothing in either the local school or countywide appeals procedures shall be construed as limiting the right of any student having a complaint to discuss the matter informally with appropriate school personnel.

6. No reprisals of any kind shall be taken by anyone against any student as a result of a complaint or appeal.

7. Local discipline, grievance, and appeal procedures shall be reviewed annually by local school authorities and student representatives. The MCPS appeals procedure shall be reviewed annually.

(*Montgomery County, Maryland*)

The schools in White Plains, New York, even address what parents can do when their children are faced with suspension:

GUIDELINES FOR PARENTS IN THE EVENT OF THEIR CHILD'S SUSPENSION FROM SCHOOL
(To be attached to suspension letter)

A. Reasons for Suspension

Education Law 3214 of the State of New York establishes the following reasons for suspension:

a. A minor who is insubordinate or disorderly, or whose conduct otherwise endangers the safety, morals, health or welfare of others;

b. A minor whose physical or mental conditions endanger the health, safety, or morals of himself or of other minors;

c. A minor who is determined in accordance with Education Law to be feebleminded to the extent that he cannot benefit from instruction.

B. Board of Education Policy

On October 18, 1971 the White Plains Board of Education adopted the following revised policy:

> It will be the policy of this district to notify a parent or guardian before a student is suspended. Failing this, a parent or guardian will be notified of a suspension within 24 hours. The parent or guardian and/or his representative will be offered the opportunity of a meeting with the principal and complaining witness or witnesses. The suspension will become part of the student's record only after such meeting is held, or the parent or guardian and/or his representative waives the right to a conference with the principal, and then only in the event the charge is sustained by a preponderance of the evidence.

C. Guidelines For Parents

1. In the event a suspension becomes necessary, the principal of the school will

make every effort to reach the parent to explain what happened and indicate the duration of the suspension.

2. You are entitled to a conference with the principal to discuss the suspension. At this conference you may bring a representative or send a representative in your place. If a representative is to be involved you must give written permission for the person to speak on your behalf, and this permission should be given to the principal one school day before the conference.
   No indication of the child's suspension will appear on the student's record until after the conference or unless the parent waives the conference and then it will go on record only if the principal feels the preponderance of evidence indicates it is justified.
   During the period of suspension, the parent is to see that the student is adequately supervised.

D. Steps Beyond a Principal's Suspension

Most suspensions go no further than the building level. Some, however, are considered serious enough to be referred to a higher level by the principal. In case of a referral to a Central Office Review or a superintendent's hearing, you will be notified of the reasons and the procedures to be followed, and your rights throughout these procedures.

E. Further Questions

If you have further questions about this specific incident, contact your building principal.

> If you have further questions about your rights and the rights of your child under suspension law, contact the office of the Director of Pupil Personnel Services at 946–4200.
>
> (*White Plains, New York*)

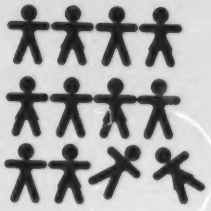
Sometimes it may become necessary to remove a student immediately. Because of a specific exception made by the U.S. Supreme Court in the *Goss* v. *Lopez* decision, the notice and hearing requirements can be temporarily waived in an emergency. If the student's presence "poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process either within a classroom or elsewhere on the school premises," then:

- The superintendent, principal, or assistant principal may remove the student from curricular or extracurricular activities or from the school premises.
- A teacher may remove the student from curricular or extracurricular activities under his or her supervision but not from the school premises altogether.
- If a teacher makes an emergency removal, the reasons for the removal must be submitted to the principal as soon as practicable thereafter.
- If the superintendent or principal reinstates a student removed by a teacher prior to the hearing following removal, reasons in writing must be given to the teacher upon request.
- A hearing must be held as soon as practicable after the removal, but within 72 hours after the initial removal is ordered. Written notice of the hearing must be given to the student as soon as practicable prior to the hearing. The hearing must be held in accordance with either the suspension or expulsion procedure depending on the probable action that will be taken. An important additional requirement is that the person who ordered, caused, or requested the removal must be present at the hearing.

It should be noted that emergency removal will obviously be most appropriate where physical violence is occurring or is imminent. Emergency removal may not be permissible where the student is using abusive language unless it appears that the words may subsequently lead to violence or that the words themselves disrupt the academic process. The speaking of such words in the classroom where the academic process is interfered with may be cause for emergency removal. The same words uttered in the far corner of the playground at lunchtime may not.

The intent of the courts is that the emergency removal procedure be used only in the most serious kind of situations. In all other cases, the regular suspension and expulsion procedures should be used.

CHAPTER 7



GRIEVANCE PROCEDURES AND DISCIPLINE RECORDS

A grievance is simply any situation occurring in the course of the school's operation that causes a student to consider himself or herself aggrieved. Students should be encouraged to discuss their grievances informally with the persons involved, prior to invoking formal grievance procedures. However, it is desirable for schools to provide mechanisms for the expression and resolution of grievances that cannot be resolved through informal discussion. Although the diversity of schools and school districts does not lend itself to a uniform grievance procedure, the following suggested guidelines provide a basis for establishing grievance procedures in local schools.

- A grievance committee can be formed, consisting of:
  two parents selected by the PTA or other parent representative group in the school
  two students elected by the student body
  two faculty members elected by the faculty
  two representatives appointed by the principal (These rep- representatives need not be administrators.)
- Any student with a grievance can communicate his or her concern in writing to any member of the grievance committee, who in turn would bring the grievance before the committee for consideration.
- The committee has the responsibility of carefully investigating the alleged grievance and reporting its findings and recommendations to the school principal.

- The principal is responsible for taking action in regard to the committee's recommendations or referring the matter to the superintendent for action on his or her part.

The Broward County, Florida, school system illustrates one way these guidelines can be implemented:

STUDENT GRIEVANCE PROCEDURE

Some students may feel that they have been treated unfairly under this Code and other rules and regulations. The following steps provide a fair resolution of student grievances, including complaints alleging any action which would be prohibited by Title IX.

1. Student/teacher conference
2. Student/administrative assistant conference
3. Student/principal conference

The first step taken by the student is with the member of the staff involved in the unfair action. If the grievance is not resolved after initial contact, the student may involve the parent(s), a guidance counselor, or any other person of the student's choice.

If the grievance goes beyond an informal basis, the student must submit a written statement signed by the parent(s) to the next level of the Grievance Procedure. The statement must contain:

1. Name(s) of any person(s) involved;
2. Date(s) on which the student feels there was unfair treatment;
3. A brief statement as to why the student feels there was unfair treatment;
4. What corrective action the student would like to see taken.

The student shall receive a written response to the statement within five (5) school days.

If the student and parent(s) feel that they have not received satisfaction at the school level, they may proceed with their grievance, using the due process procedure as outlined in the School Board Policy 5006.

The student shall have ten (10) school days to file a written appeal of any decision with the next level of the procedure.

(*Broward County, Florida*)

The school code of Illinois illustrates another way:

GRIEVANCE PROCEDURES

While many school districts have no formal process established for appeal of grievances, by tradition the process for appeal is:

1. The student or the parents should discuss the matter with the person or persons directly responsible for the grievance.
2. If no satisfaction is attained, the matter should be directed to the building or school principal and then to the district superintendent. If the grievance is against the principal, the district superintendent should be contacted, after talking with the principal as explained in step one above.
3. If the matter is serious and a satisfactory solution is not realized, the student or parents may then wish to request permission of the school board president to speak on the matter at the next meeting of the local board of education.
4. The appeal agent after the local board of education is the Superintendent of the Education Service Region and then the Illinois Office of Education. Only matters involving controversies (or grievances) arising under The School Code of Illinois may be appealed to the Educational Service Region, and the Illinois Office of Education.

Persons appealing grievances should remember that a belligerent, aggressive manner accomplishes very little, and that the principal or superintendent may be unaware of the situation at issue. The person bringing the grievance should not just assume that he/she is "in the right," but should consult The School Code of Illinois or pertinent rules and regulations (available at the local library or through the district superintendent) to determine the rights and responsibilities of all persons

involved. Local school officials should be contacted for information on specific school district appeals procedures.

(*State of Illinois*)

Some alternative procedures provide for review of the grievance at various administrative levels within prescribed time limits. One model functions as follows:

- A grievance is submitted in writing to the principal—unless the grievance directly involves the principal or one of his or her policies, in which case the student might wish to file his or her grievance with the superintendent of schools.
- When a grievance is filed with the principal, he or she should call a meeting of personnel appropriate to the grievance, with student and staff representation permitted in accordance with pre-established rules.
- The principal is expected to resolve the matter equitably within a stated time following the meeting and to communicate his or her decision in writing to all parties to the grievance. Failure by the principal either to call a meeting or to render a decision within the designated time constitutes the basis for an automatic appeal to other specified administrative levels at which time similar administrative patterns are followed.

Such grievance procedures usually employ a principal–superintendent–board of education appeal route. If the student is not satisfied with the decision rendered by the school district's superintendent or board of education, the student—with the assistance of an adult—may appeal to the local court en route to the U.S. Supreme Court, if it becomes necessary.

The Montgomery County, Maryland, and Minneapolis, Minnesota, codes illustrate the various administrative levels a grievance may go through:

APPEAL OF THE DECISION OF THE PRINCIPAL

If a student has attempted, without success, to have a problem resolved at the local school level and is not satisfied with the decision rendered, the student may appeal the decision to the appropriate area assistant superintendent and the following steps are carried out:

1. Submitting an Appeal

Within ten school days of the decision of the principal the student may request, in writing, a review of the complaint and appeal the decision to the responsible area assistant superintendent. The statement should include:

a. All pertinent factual information

b. The remedy requested

c. A request for:

   1. A review of the complaint and the decision of the principal or

   2. An informal hearing before the area assistant superintendent

2. Review of an Appeal

a. Upon receipt of a request for a review of a decision rendered by the principal, the area assistant superintendent acknowledges receipt of the request.

b. The area assistant superintendent makes a decision based on the information submitted by the student and any additional information obtained, or the assistant superintendent may establish a five-member board as follows:

   1. The board should be comprised of two students, two teachers, and one administrator selected at random from an area pool by the teacher specialist for student affairs.

   2. The five-member board meets within five school days of the date the board is established to review all information and submit recommendations to the area assistant superintendent for consideration.

   3. The area assistant superintendent makes a decision based on the recommendations of the board, the information submitted by the student, and any additional information obtained.

c. Within ten school days of the date the appeal is received, the area assistant superintendent notifies the student and principal, in writing, of the decision concerning the appeal.

3. Informal Hearing Before the Area Assistant Superintendent

a. Upon receipt of a request for a hearing, the area assistant superintendent does the following:

   1. Acknowledges receipt of the request

2. Sets the date for an informal hearing (note: the hearing must be held within ten school days from the date the request is received)
3. Informs all individuals concerned, in writing, of the time, date, and place of the hearing
4. Notifies the student of the right to present information, evidence, and witnesses

b. The area assistant superintendent is responsible for the following:

1. Conducting the hearing
2. Questioning parties to the informal hearing
3. Providing an opportunity for the student to question parties to the hearing

c. Within five school days after the informal hearing, the area assistant superintendent does the following:

1. Reviews all data and information presented at the hearing
2. Renders a decision
3. Notifies the student and principal, in writing, of the decision and the student's right to appeal the decision

4. Review by the Superintendent (or Designee)

a. The student may appeal the decision of the area assistant superintendent. The appeal must be submitted to the superintendent within ten school days of the

receipt of the notification of the decision of the area assistant superintendent and include information to justify the appeal.

b. The superintendent (or designee: deputy superintendent or associate superintendent for administration) reviews the issue and related information.

c. Within five school days of receipt of the appeal, the superintendent (or designee) renders a decision and notifies the student, principal, and area assistant superintendent in writing.

(*Montgomery County, Maryland*)

RIGHT OF APPEAL

Students have the right to appeal judgments and decisions by teachers, administrators, or student organizations which they believe are contrary to the provisions of this policy. The appeal route in all instances must be teacher, assistant principal or principal, district appeals committee, superintendent or assistant superintendent, and school board. The right to appeal is available to each party involved. Appeals are to be without prejudice toward the individual student(s) involved. Reasonable and equitable rules and procedures outlining the details of appeal shall be drawn up with the involvement of students, staff, administration, and parents. Students shall have the rights of due process in these proceedings.

The District Appeals Committee will be organized by the school board and will

include students, classroom teachers, administrators, and parents. The committee will determine its own rules of organization and procedure.

(*Minneapolis, Minnesota*)

North Carolina has an appeal option to the board of education:

APPEAL TO BOARD OF EDUCATION

Any pupil aggrieved by final action of the Superintendent may appeal to the Board of Education and at the hearing of such appeal shall have the right to be represented by any person of his or her choice. The period of suspension of exclusion awarded by the Superintendent need not be postponed pending the outcome of the appeal. Such an appeal shall be on the record made in the hearing, unless the Board of Education shall notify the parties in advance that it will hear the matter de novo, rather than on the record made in the hearing before the Superintendent, and such hearing shall be de novo where the pupil claims the discovery of new evidence which could not have been discovered by reasonable diligence at the time of the first hearing. The

Board of Education will alter the Superintendent's decision only if it is found to be clearly erroneous. A decision by the Board of Education adverse to the pupil may be appealed to the Courts.

(*Durham, North Carolina*)

Most schools maintain some type of record on students involved in discipline problems. Here are two examples of guidelines for maintaining such documents. Note that, like academic records, rules regarding the keeping and accessibility of discipline records are governed by the Family Education Rights and Privacy Act of 1974.

DISCIPLINARY RECORD

A student and/or the student's parent may question any part of student's *disciplinary record maintained* by the school district on the grounds that it is an inaccurate record or that the conduct did not warrant the discipline assessed. The principal will receive any evidence tendered on behalf of the student on the issue and will make such other necessary investigations. If the record is found to be inaccurate, it will be corrected, or if it is found that the student's conduct did not warrant the discipline assessed, the record will be amended to reflect that finding.

Disciplinary actions will not be entered on the student's permanent record card except for expulsions. Individual records shall be treated as confidential and disclosed only with permission of the student if he or she is an adult, or the student's parent if the student is a minor or under court order to public authorities requesting information in the course and scope of their legal duties.

(*State of Illinois*)

DISCIPLINARY RECORD

All Teachers will be given a form for discipline problems. Before sending a student to the office for discipline reasons, complete the top half of the discipline report and send the entire form to the office along with the student. Be specific so that the office will have an adequate basis for action. If a student is sent to the office without a form, then the student will be allowed to go to his next class without any action being taken. However, in sending the student to the office, please list the various methods that have been used previously to help solve the problem. Problems arise when students are bored and unoccupied.

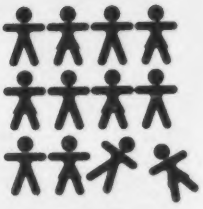
Teachers must take a look at the Family Education Rights and Privacy Act of 1974 (Public Law 93–380). It states in part that "All academic and personal records pertaining to the individual student are confidential and can only be inspected by students, parents, and school officials."

The act also states that school must provide parents and adult students the

opportunity to inspect these records and challenge any records that may be misleading, inaccurate or otherwise inappropriate.

(*State of North Carolina*)

APPENDIX



EVALUATING AN EFFECTIVE DISCIPLINE CODE

In formulating local school district guidelines regarding student rights and responsibilities, questions that need to be considered include the following:

1. Is the policy legal? That is, does it appear to be within what is allowable under state or federal law?
2. Is the policy statement clear and reasonably free from ambiguity and vagueness?
3. Is the policy statement formulated so that it clearly limits the potential for arbitrary or capricious action in relation to its enforcement?
4. Is the policy enforceable? That is, does it avoid statements that are unenforceable because of complexity, irrelevance, or factors of place and time?
5. In policy that is questionable is there evidence that the formulation was the result of broadly based input and concurrence?
6. Is the policy indicative of fairness, openness of decisionmaking, and nondiscrimination?
7. Is the policy reasonable and necessary? That is, would it appear to a reasonable person that the policy is germane to the management and goals of a public school educational process?
8. Has the content of the regulation been communicated to all students who are affected by such policy?

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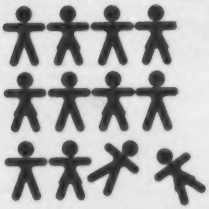

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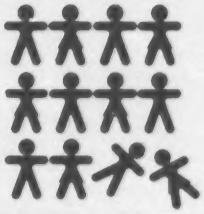

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